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SELECTED AND EDITED WITH AN INTRODUCTION

BY

G. W. EYBERS, M.A.

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PREFACE.

THIS volume is intended to supply the papers and documents necessary to the study of South African history from the year 1795. It fills a gap in the series of works by various compilers which have done so much towards the careful study of the constitutions of the United Kingdom and the outlying dominions. It is hoped also that at this time when so much thought is given to imperial relations it may serve as a handy book of reference for estimating the character of the various elements that have contributed towards the building up of the youngest of the three great British Dominions. The work is really more than a volume of select documents, for it contains nearly all the instruments necessary to follow the broad lines of the constitutional history of the four colonies that formed the Union. There will also be found some mention of practically every important step taken towards the extension of British rule and the placing of native territories under European control. Three documents which will form the basis of negotiation towards the end of the War or shortly afterwards have been included in Appendices. Under the heading "Natal" are now published several papers relating to the Great Trek which have probably never been seen by anybody now alive outside official circles except two or three historians. These are included with the kind permission of Mr. Secretary Bonar Law and after him Mr. Secretary Long. Most of the Free State laws given below are to be found nowhere in London except in one private collection of books, the fine South African library collected by the late Mr. Sidney Mendelssohn.

A few documents are given in their entirety as originally issued, the object being to show the exact form given at various times in the different countries to proclamations, ordinances, acts of the legislatures, imperial papers, and

so forth. Where a portion of a document has been summarised or abbreviated this is indicated by the customary marks. In a very few cases where I wished to draw attention to an Act only the title and the date are given.

As regards the plan of arrangement, it seemed desirable to adopt for the Cape of Good Hope and Natal a scheme that would have the advantage of maintaining the unity of interest with regard to the main groups of persons who performed the duties of government. There will therefore be found for each of these colonies three divisions—Central Government, Local Government, and Administration of Justice. In only a very few cases does a document deal to any extent with two or more of these. If the traditional division into Executive, Legislature, and Judiciary had been made, a more logical basis might be established, but then it would have been impossible to avoid splitting up a large number of Acts and giving the different parts under various heads. Such a course seemed undesirable. As the papers are here arranged, matters relating to the executive and the legislature will have to be sought for under the first heading, those relating to municipal and divisional councils under the second, and magistrate's courts, high courts, and native courts are included under the third. No distinction has been made with regard to the origin of the documents. Instruments issued by the Crown in Council, by the Governor, or by the colonial legislature may be found side by side under any of the three headings.

In the case of the Orange Free State and the South African Republic, the Grondwet or constitution of each contains provisions for every branch of government. Here again it would lead to chaos if the documents were to be subdivided, therefore a purely chronological arrangement has been made. When any particular subject is to be consulted, the Index at the end of the volume will serve as a guide. The laws of these two countries were drawn up in Dutch. With the originals an English translation has been given in every case. I have attempted to make the rendering as literal as possible. Where a portion of an Act in Dutch has been summarised I have adhered as much as possible to the spelling and grammatical forms of the original. Titles of dignity occurring in the Dutch text have as a rule been omitted in translating.

As there exists no work dealing specially with the constitutional history of the South African colonies the subject has been treated at considerable length in the Introduction. Though I have consulted nearly all the published records and the unpublished documents in the Public Record Office relating to South Africa up to 1860, I have often been greatly assisted also by the very thorough and reliable histories of Dr. G. McC. Theal.

Mr. Advocate Gregorowski of Pretoria has kindly sent me a good deal of information regarding the Free State laws passed between 1867 and 1891. I also wish to record my gratitude for ready assistance afforded me in my search for the documents in the Public Record Office, the British Museum, the Colonial Office Library, the Royal Colonial Institute, and the Office of the High Commissioner for South Africa. My best thanks are particularly due to those who by their lively interest in the progress of the work, by encouragement, and by expert advice have made my task a light one and a source of genuine pleasure. To the willing co-worker who has copied several of the documents and assisted in many other ways I desire to acknowledge my indebtedness.

G. W. EYBERS.

KING'S COLLEGE, LONDON,
13th October 1917.

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1. *C. of G. Hope Statutes*: STATUTES OF THE CAPE OF GOOD HOPE, 1652–1895. Edited by Hercules Tenant and Edgar Michael Jackson. Cape Town, 1895.

2. *Laws of the O.R.C.*: STATUTE LAW OF THE ORANGE RIVER COLONY. Edited by P. L. Lefebvre and Bedver B. L. Jackson. Bloemfontein, 1907.

3. *Locale Wetten der Z.A. Rep.*: LOCALE WETTEN EN VOLKSRAADSBESLUITEN DER ZUID-AFRIKAANSCHE REPUBLIEK, 1849–98. By various compilers. Pretoria, 1887–99.

4. *Ords. of Natal*: ORDINANCES, PROCLAMATIONS, ETC., RELATING TO NATAL, 1836–55. By W. J. D. Moodie. Natal, 1856.

5. *O.V.S. Wetboek*: WETBOEK VAN DEN ORANJEVRIJSTAAT, 1854–91. Uitgegeven op gezag van den HEd Volksraad. Bloemfontein, 1892.

6. *Procls., etc.*: PROCLAMATIONS, ADVERTISEMENTS, AND OTHER OFFICIAL NOTICES, PUBLISHED BY THE GOVERNMENT OF THE CAPE OF GOOD HOPE FROM 10TH JANUARY 1806 TO 2ND MAY 1825. Cape of Good Hope, 1827.

7. *P.R.O., C.O.*: Public Record Office, London; Colonial Office Department. The papers for each Colony are divided into sections like "Original Correspondence," "Ordinances," "Government Gazettes," etc., and the volumes in each section are numbered. Thus 50/4 is the fourth volume of the Cape section, "Ordinances."

8. *Rec.*: RECORDS OF THE CAPE COLONY, 1793–1827. 36 vols. London, 1897–1905. By G. McC. Theal.

9. *Statute Law of the Transvaal*: STATUTE LAW OF THE TRANSVAAL, 1839–1910. Compiled and edited by Carl Jeppe and J. H. Gey Van Pittius. Pretoria, 1910.

10. *Statutes of Natal*: STATUTES OF NATAL, 1845–99. Compiled and edited by R. L. Hitchins and revised by G. W. Sweeney. Pietermaritzburg, 1900.

11. *Verz. van Besl. v. d. O.V.S.*: VERZAMELING VAN BESLUITEN . . . VAN DEN HEd. VOLKSRAAD VAN DEN ORANJEVRIJSTAAT (1854–66). Gedrukt op Last van den Hoog Edelen Volksraad. Bloemfontein (1867 ?).

INTRODUCTION.

SECTION I.

THE CAPE OF GOOD HOPE UNDER THE DUTCH, 1652–1795.

BRITAIN'S task in South Africa has probably been more difficult than in any other part of her extensive and widely scattered dominions. While her statesmen have had to cope with native problems in India and to a lesser extent in Australasia; while they have been faced in Canada by the delicate matter of governing an off-shoot of another highly civilised and intelligent nation; while in the West Indies there was the task of eradicating slavery and adjusting governmental institutions to the peculiar needs and weaknesses of a mixed population of Europeans and natives — she found in the southern corner of Africa all these elements combined. There were the Hottentots, who had been gradually taught to lead a settled life and engage in remunerative work; the Bushmen, still untamed and, as the event proved, for ever untamable by any of the artifices on which the white man prides himself; and the Kaffir, who in his southward and westward march had begun to touch the vanguard of the colonists as they moved towards the rising sun. Most serious of all, there was the white population, with its own ideas and traditions, its own ambitions and its own peculiar characteristics, formed and hardened by close on a century and a half of contact with the soil. The relation of the white men towards their slaves and the various native or non-European races would be a fruitful source of difficulty. To the formation of their national character various factors had contributed. If one would estimate and account for the value or success of the Constitution introduced in the nineteenth century it will be necessary to know beforehand not only the governmental arrangements that existed in 1795 when the Cape of Good Hope surrendered to the arms of George III., but also to understand something of the attitude towards the State of the people subdued.

The Constitution of the Cape of Good Hope towards the End of the Rule of the Netherlands East India Company.

Rise of the burgher class.

At its establishment in 1652 the Cape settlement, consisting entirely of servants of the Netherlands East India Company, was managed exclusively by officials who followed the methods and the procedure that were universally adopted by the officers on board a fleet or vessel sailing between Holland and the East. While they acted both as a governing and a judicial body their proceedings were marked by promptitude and finality. The original intention was to have a half-way house to the East, where diseased persons could recuperate and fresh supplies be obtained, and it soon became obvious that this object could be best attained if the agriculturists were given land and cattle to farm on their own account. Thus there arose a class of men distinct from the employees of the Company. They were called free-men or burghers. Receiving land in 1657, some leagues from the immediate vicinity of the Fort in Table Valley, they shifted into the interior, becoming the outposts of Western civilisation and Christianity, and making from its southern extremity the first definite and fruitful move towards the reclaiming of the Dark Continent, a move the end of which is not yet in sight.

Divergent interests of burghers and employees.

Very soon it became obvious that the interests of burghers and employees were by no means identical, and as a recognition of this fact the colonists were given representatives first in the courts of justice and later in other bodies as they were created. This privilege was granted the burghers by the rulers on their own initiative, for, as far as is known for certain, there were as yet no definite and clearly formulated demands on the part of the people for a share in the government.

Growth of political consciousness.

This is not the place for describing with any minuteness the evolution of a political consciousness of the Cape burghers, but it must be remarked that the process commenced before the end of the seventeenth century and continued throughout the eighteenth with ever-increasing force and continuity. As a rising reef of rock near the seashore first shows above the surf a few isolated peaks at considerable distances apart, which then become closer and closer together till the entire chain emerges and finally, perhaps, grows to a mountain range filling the whole countryside, so there were from the earliest years of the eighteenth century apparently unconnected risings among the burghers, which at first merely took the form of prayers

for the redress of grievances, later of demands for a share in the government, and finally ended in the establishment of independent republics in the interior of the Colony.

Governor's powers.

The power against which this movement was directed was concentrated in the hands of a few officials. Subject to the directorate of the Company, which had received its first Charter in 1602, there was about the year 1790 at the head of the Cape Colony a Governor with very extensive powers. He could convene the courts of justice, approve all judgments, call up the militia for active service, and direct the activities of all persons who exercised minor executive and administrative functions throughout the country.

The Council.

Yet this last statement should be qualified, for there was associated with the Governor a Council which shared the task of making laws and seeing to it that these were carried into effect. The available records leave a considerable degree of doubt as to the question in how far the Governor was bound to act in accordance with the opinions of the majority of his Council. On one occasion at least instructions had been issued from Holland permitting the Governor to set aside the decision of a majority if he deemed such a step necessary; and as a general rule it was the Governor who was ultimately responsible to the managing body of the Company, though on a few notable occasions other officials were also called to account for acts done by the government. Yet it is not certain whether later governors were to be considered as bound by all instructions issued to their predecessors. It is even doubtful whether such later governors were always aware of the existence of instructions issued in earlier years. The directors in the Netherlands were often more concerned about their trade and the safety of their cargoes than about minute and definite points of law. They were traders first and legislators afterwards. This, however, may be stated with certainty, that the governors did act in opposition to the decisions of their Council and that such action was upheld by the directors. Yet this did not happen frequently, for when the Governor was a strong man he carried his Council with him, while a weak ruler generally adopted the views of his advisers. That there were not likely to be any grave differences between Governor and Council will be realised when it is stated that all the councillors were officials of the Company, whose cause they were always apt to espouse rather than that of the colonists whenever the interests of rulers and ruled came into conflict; for though no special emoluments were attached to the office of councillor, it was always filled, at the wish of the directorate, by salaried servants appointed by that body and liable to dismissal by it.

As a rule the high officials sitting in the Council of Government were seven or eight in number. They were generally men of fairly advanced age who had climbed step by step every rung in the ladder of advancement, and consequently were well acquainted with the policy and methods of their employers. Naturally they seldom showed any inclination to view matters sympathetically from the burghers' standpoint, especially when commercial privileges were asked for. This had the effect of causing the inhabitants to make demands for representation in the highest governing body, but they were met by the directors with a flat refusal. The desire for representation had grown out of concrete needs, the absence of trading rights which the Company reserved to itself, and grievances arising from the dependence of the Supreme Court of Justice on the Government, and the power of banishment held and exercised by the Governor. Can any explanation be found of the fact that the successive generations of colonists who remembered and handed down the experiences of their ancestors were so slow in their advance? Apart from the universally experienced difficulty of upsetting or even materially modifying an established order of things, however bad and undesirable, the Cape colonists laboured under the additional disadvantages of being too widely scattered to be able to co-operate, of being totally debarred from the advantages of a public press, of being very badly educated in history and politics, of being in their ordinary walks of life very easy-going and somewhat inclined to become indolent, and of having the ever-present danger of attacks by the natives to provide against. But the most direct if not the most potent cause of their prolonged quietness was to be found in the popularity of their lesser boards.

District Boards.

By 1795 the Colony had been divided into four districts: Cape Town, Stellenbosch, Swellendam, and Graaff Reinet. The president of each of the district boards was appointed by Government and his salary was paid out of the public treasury. He received his instructions from the Governor and Council and was removable by them at pleasure. He was, as the civil commissioner is to-day, the representative of the central Government in his district. He bore the title of landdrost and had an official residence in the town where his board held its meetings. With him were associated six men, called heemraden. When such a board of landdrost and heemraden was first constituted it was the practice for the Government to appoint all the members, but when subsequent vacancies occurred, and regularly every two years, the board sent to Cape Town, the seat of Government, a double list of names from which the Council selected the necessary number

of heemraden to serve for the next two years. The heemraden had to be burghers and they had to possess land and reside in the district for which they were appointed. No servant of the Company, except the landdrost, could sit on the district board. Subject to the supervision and control of the Governor and Council which exercised executive and legislative functions the boards performed fiscal and municipal duties in their respective districts, seeing to the upkeep of public buildings, the making and repairing of streets and roads, and the letting of corn-mills where these existed. Each board had its own treasury out of which were defrayed the expenses arising from local works. Certain taxes were collected and paid into the district chests, but there were others which were gathered for the colonial treasury. Landdrost and heemraden were also entrusted with the duty of instituting inquiries and sending recommendations to the Government when application was made by burghers for grants of waste land, and it was always on such suggestions based on intimate acquaintance with local customs and conditions that grants were made.

Local Courts.

Apart from their administrative functions the boards also met as courts of justice, possessing civil jurisdiction in cases involving 100 Rix-dollars or more. They were instructed to attempt to settle disputes among the inhabitants. This was done by amicable intervention as far as possible, and as courts of arbitration they rendered valuable services in difficulties relating to boundaries, rights to pasture-lands, running water, and matters of a similar nature. Their decisions were subject to appeal to a higher court of justice. They were not invested with any real jurisdiction in criminal cases, but they held inquests, obtained information at first hand with regard to crimes, and examined witnesses on oath. All the evidence collected was then placed in the hands of the landdrost, who acted as public prosecutor before the Court of Justice at Cape Town.

Field-cornets.

Each district was subdivided into a number of wards in each of which a burgher was appointed by the district board to supply it with items of information regarding the assessment of taxes and matters of a like nature. He had to preserve order in his ward and was instructed in some cases to make arrests. At first he bore the title of *veld-wachter* or *veldwachtmeester*, but about the year 1795 he came to be called field-cornet. He was generally the most considerable farmer of his ward and a man of known integrity and ability. He drew no salary, but was excused the payment of certain dues. The office, like that of heemraad, was eagerly sought after for the honour it conferred on the holder in the estimation of his neighbours. As the old inhabitants of the

Colony, the Bushmen and the Hottentots, were often more or less hostile towards the white inhabitants, the field-cornets were empowered to call the burghers to arms in case of attack or other great urgency and to defend the farmers as best they could. As a further means of defence there was in each district a burgher militia managed by a board of officers with the land-drost as president. All burghers between the ages of sixteen and sixty were liable to be called up for active service and they exercised annually for a few days. The whole of these forces stood under the direction of the commander-in-chief of the Colony, but it was never possible to maintain strict discipline among the farmers or to enforce obedience to calling-up orders.

Local government in the capital.

Very similar to these arrangements was the constitution of the board that did service for the capital, with these notable exceptions, firstly that in the Cape Town board there sat an equal number of burghers and officials of the Company, and secondly, that it had no judicial functions to perform. These were relegated to a Court of Petty Cases which consisted of six members, three burghers and three officials. They decided disputes of a less amount than 100 Rix-dollars. The Court was also a Matrimonial Board for the whole Colony, and its sessions had to be visited in person and its consent procured by all persons intending to marry. In both spheres of its duties it acted under the supervision of the Supreme Court of Justice.

The Court of Justice.

In its origin and up to the year 1786 the latter body had consisted entirely of servants of the Company nominated by the Government, except that when a burgher was concerned in a case three other burghers had always been associated with the officials on the bench of judges. But in that year, in response to demands carried by delegates of the burghers to the Netherlands, the Court was reorganised so as to consist of twelve judges, half of whom were selected from the burgher class and half from the officials. The burghers too were made permanent members, sitting for the trial of all cases whether a colonist was concerned or not. It was a novel method of attempting to dissociate the judiciary as much as possible from the executive and the legislature, and if this first stride could be followed up by further progress on the part of the people—and everything pointed to the likelihood that the process would be continued—then the Cape Colony would soon have had a somewhat unique judicial body.

The members were appointed for life, except that when an official was removed from the Cape his post was filled by another of his own class. When a burgher judge had to be appointed a selection was made by the Government between two candidates proposed by the burgher judges already serving.

No salary was attached to the office of judge. The servants of the Company had to be content with their ordinary emoluments and the burghers, in order to remain entirely independent of the Government, accepted no payment whatever. The Court of Justice tried all civil cases lying beyond the jurisdition of the local courts and all criminal cases arising in the whole Colony. It also heard appeals from the decisions of the lower courts, and its own judgments were in turn subject to appeals to the High Court of Batavia; for in several respects, but particularly in matters of shipping and trade, the Cape of Good Hope was subject to the direction of the Dutch East Indian Government, which had its headquarters on the island of Java. In theory the Cape settlement was an out-station of the Indian administration, but its proximity to Europe left it much more to the guidance of the board of directors in the Netherlands than could be the case with any of the remote East Indian settlements.

The secretary, or, as he would be called to-day, the registrar of the Court of Justice, was entrusted with the arrangement and direction of the affairs of insolvent debtors according to instructions issued by the Court. After a sale of effects had been ordered and carried out the secretary saw to the distribution of the proceeds among the creditors according to fixed rules of preference. But by far the most important member of the Court was the fiscal, who occupied the position of a public prosecutor and sat on the bench of judges when civil cases were being tried. For more than a century the fiscal had held his office by direct appointment issued by the governing body of the Company and quite independent of the Colonial Government. His duty had been to see that the orders of the directorate were carried out and he corresponded with them immediately. In course of time, however, it was found that he himself needed some controlling influence and in 1793 he was placed under the direction of the Government; but he continued to be responsible for safeguarding the authority and interests of the lords proprietors of the Colony. Besides being a member of some of the minor administrative boards the fiscal was also a leading member of the Council of Government.

The Board of Orphan-masters.

The administration of intestate property and of goods left to persons not resident in the Colony was entrusted to a Board of Orphan-masters, which consisted of six members. As was the case with most of the other bodies, half its members were officials and the others were burghers. They determined the succession of heirs and administered the property of minors, providing for the education of their wards. The education of the young throughout

the Colony was always on a precarious footing. In the country districts the local boards had instructions to assist in the matter, but the task really devolved on the ministers of religion at the various centres and their *kerkraden* or presbyteries. Where any schools existed at all they were either private undertakings or were supported by charity. At Cape Town, however, there was a Board of Directors of Public Schools consisting of a member of the Council of Government, three clergymen, and two elders, who superintended the public schools of the town and held inspections when they were minded to do so. Funds were raised by subscription and the various congregations assisted the work by contributing, but the Government very seldom made direct grants for educational purposes. It did, however, assist to pay the ministers who were employees of the Company.

The Burgher Council.

There assembled at Cape Town another Council which did service for the whole country, but it is difficult to classify this body, for it fulfilled no duties of a legislative or an executive or a judicial nature, though indirectly it pertained of the nature of each of these functions. It may be called an advisory body. From before the close of the seventeenth century, two or three burgher representatives sitting in the Court of Justice had repeatedly been consulted by the Government on various matters affecting the colonists as a class and their suggestions had generally been adopted. This custom had become crystallised and extended. From being a party whose advice could be asked when it was needed the burgher judges had proceeded to submit burghers' petitions to the Governor and Council and presently they began to claim it as a right that they should speak for the whole body of burghers and that they should be heard. They had continued to be for so many years the channel for transmitting the grievances of the inhabitants that when at a later date the officials attempted to dispute the claim they had to submit to established custom. During the eighteenth century the burgher judges had begun to meet in private session and they were then regarded as constituting a separate board known as the Burgher Council. In 1793 the usage was formally recognised as the law of the land, when it was ordered that if the councillors wished to make representations to the Governor one or two of them could do so verbally in the first instance. If this did not produce the desired effect, they could address themselves in writing to the Government, who were commanded to supply them with an extract of the proceedings respecting the matter. If the members were not yet satisfied they could communicate the circumstances to the directors in Holland. They were to deliver such a communication to the

Governor in a sealed packet, at the same time informing him of the subjects to which it referred. He was bound to transmit it to the directors with other public papers at the first opportunity. Thus there was no risk of the burghers' complaints being squashed by the governing body without redress and before they could be laid before the supreme authorities in the Netherlands. By 1795 the Burgher Council consisted of the six burgher judges who sat in the Court of Justice.

Expense and troublesomeness of the settlement.

The revenue was hopelessly inadequate to meet the expenditure incurred by the Company. The taxes were always remarkably low. This may be accounted for partly by the fact that the colonists were rather poor in convertible wealth and partly because in the matter of levying dues the Government consistently followed the advice and deferred to the objections of the burgher councillors. They were affording a temporary respite to the people, but unfortunately people must reap what their fathers have sown, and the unwillingness of the Dutch section of South Africa's white population to tax themselves to-day is very likely due to the effective representation of their ancestors' wishes before the Government in earlier times. The Cape was of great value to the Netherlands Company, but more for its importance as a strategic base and a port of call than for any direct profits which it yielded. As a settlement taken by itself it was a most unprofitable financial venture, and a continual drain on the Company's funds. It was, moreover, a very troublesome Colony, inasmuch as it had at an early date broken away from the ordinary rut of factories and out-stations owing to the presence of a large body of free settlers, who devoted themselves to pastoral and agricultural pursuits rather than to trade and barter.

Difficulties of the colonists.

After the middle of the eighteenth century the people made demands for governmental reform which became more and more far-reaching and insistent. The great bulk of the affairs in which the colonists were concerned was already being managed in the local courts and boards by men of their own class, selected from their midst and in sympathy with their wishes and requirements. It is possible, therefore, that they would have remained content for many years more with the established order of things, but there were mainly two circumstances which caused them to move. The Netherlands Company was a body trading for profit and it reserved to itself an almost exclusive right of trade at the Cape. This was a very old grievance with the inhabitants. The other source of trouble arose from the fact that during the last quarter of the eighteenth century the eastern border of the Colony began to be threatened by power-

ful and hard-fighting Kaffir tribes. In earlier years conflicts with the Hottentots, Bushmen, and bands of escaped slaves could be concluded successfully by a commando called together in a district or a ward without the Government's interference. But the Kaffirs were a new factor and far more difficult to dispose of. Yet it was just at that time that the Company was passing through its final period of decline. It did not afford its subjects the protection of which they stood in need.

Attempts to win reforms.

During the last quarter of the century, too, the people were inspired first by the teachings of the American War of Independence and then by the French Revolution, and they began to think and talk about the constitution, about fundamental laws, and about the rights of man. Their difficulties were discussed in the light of their experience during previous years when they had found it impossible to obtain any guarantee for the permanent redress of their grievances. Arriving in Amsterdam, their delegates pleaded with the directors of the Company and with the States General for constitutional liberties. Some years were spent in discussion and negotiation. The Company was hastening to its fall, and the States General, realising that any weakening of the authority and prestige of the Company, which was a huge national concern in whose welfare the whole of the people was directly concerned, would be fatal at that time when the political situation in Europe was in a very disturbed state, were unwilling to coerce the directors. Commissioners were sent to the Cape, however, to try to allay the unrest, but the improvements which they brought about did not meet the chief needs of the burghers. Failing to obtain compliance with their demands, which included equal representation with the employees of the Company in the Council of Government and a considerable curtailment of the powers of the fiscal, the people rose in revolt. At Graaff Reinet and Swellendam the landdrosts were expelled and miniature republics set up in 1795. The Government was unable to reassert its authority. Stellenbosch was on the point of rising and Cape Town was expected to follow the example of the other centres. But meanwhile war had broken out between France and Great Britain, and the Netherlands had attached itself to the French and expelled its stadtholder, the Prince of Orange. Having fled to England, he sent with an English expedition intended to capture the Cape an order [1] instructing the Government to admit the British forces into the Colony. After some fighting Cape Town capitulated [2] and the South African republic was strangled at its birth.

[1] Document No. 2. [2] No. 3.

SECTION II.

THE CAPE OF GOOD HOPE UNDER THE BRITISH CROWN, 1795–1910.

Taking as a basis of division the three forms of colonial management, Crown Colony Government, Representative Government, and Responsible Government, the constitutional history of the Cape Colony falls naturally into the following periods:

(1) 1795–1854.
(2) 1854–1872.
(3) 1872–1910.

§ 1. THE CAPE OF GOOD HOPE, 1795–1854.

The Governor an absolute ruler till 1825.

Up to the year 1824 the central government had no history worth recording, except during the period 1803 to 1806 when, under the Batavian Republic which received the country by the Treaty of Amiens, the Governor was assisted by a Council of four, of whom at least one had to be colonial born and no one could be a government official. In 1806 when the country was conquered a second time it reverted to the position that existed from 1795 till 1803. Every public act done derived its validity from the sole and undivided and unadvised authority of the Governor. He directed by proclamation, instructions, and commissions literally every matter, from the manner of drawing water on the Cape Town square to the quelling of rebellions on the eastern frontier. All the powers of government, as well civil as military, were vested in him by instructions issued in 1796 to the first civil Governor,[1] and he had the sole legislative power in the country, giving his own reading of the old laws, modifying them at pleasure, and enacting new ones. He increased the amount of old taxes and levied fresh imposts. He regulated the tenure of land by fixing or reducing the amount of perpetual quit-rent. The governors exercised a general control of the administration of justice, and with one or more assistants, whose opinions had no binding effect on any decision, the successive governors sat as courts of appeal to try civil and criminal cases of a serious nature.[2] The Governor appointed nearly all the officials except the very highest, and he could remove any one of them except the Lieutenant-Governor and the Secretary. He took away the power of initiating measures and enterprises from the local boards and made them the instruments of his own will, while the policy was adopted of appointing to the post of landdrost in the various centres military officers who had retired on half-

[1] No. 7. [2] Nos. 65 and 66.

pay, and who were but very slightly acquainted with the language and customs of the people or with the laws which they had to administer. In many notable instances these extensive powers were employed to the distinct advantage of good government. Arrears of oppressive taxes were remitted, torture as a means of eliciting evidence or punishing crime was abolished on a Governor's recommendation, judges were sent on circuit to try cases in all the districts,[1] judicial proceedings were ordered to be held in public,[2] and criminal jurisdiction was granted to the district courts,[3] thus obviating the tedious necessity of referring trivial cases to Cape Town. It is a curious fact that all these measures, which probably no one will regard otherwise than as eminently wise and statesmanlike, were adopted while the Governor was the supreme and sole ruler, whereas subsequent legislation which was most seriously complained of as short-sighted and oppressive was passed by Councils which were established in 1825, and later with the object of assisting the Governor and limiting his power.

Attitude of the British settlers, and of the Dutch burghers.

A despotism is not necessarily bad for a country: at times it is the only chance of salvation. But certainly the large body of British settlers who arrived in the Colony in 1820 and subsequent years did not think so. For the rest of the century these men were to have a bracing effect on the thorough but slow-moving Dutch burghers. As soon as their immediate material needs were satisfied they commenced to agitate for a share in the government, for the freedom of the press, and for the right to hold public meetings. The second of these privileges they soon gained—for the others they had to wait more than twenty years. Being for the greater part men of intelligence and sterling merit, and having influential friends in Great Britain to plead their cause in Parliament and before the country, they were hopeful that a speedy change in the form of government would be effected; but the imperial authorities knew that it would take some time before they could establish a firm hold on the old inhabitants, and therefore while engaged in establishing the English language, English law, and British institutions they realised that it was necessary to have in the Colony a government wholly responsible to themselves. The Dutch inhabitants asked for elective district government on more than one occasion. The essential characteristics of their class were a strong localism and a marked individualism developed on the veld in semi-independent districts. They did not yet realise that under British rule their cherished land did not lie along those paths, for they were as yet quite unfamiliar with the British Constitution.

[1] No. 67. [2] No. 68. [3] No. 70.

They would have to make a complete break with their past history, going in a direction opposite to the one along which they had come. Instead of gaining liberties in separate areas, and freedom from unnecessary interference on the part of the British Government, they would have to realise that British sovereignty was firmly established, and that it had become necessary to look at the pivot and get the government into their own hands. That was the great constitutional lesson which the British settlers had to teach the Dutch burghers; for the latter, when they came under British rule, had fallen back into their early groove of localism, out of which they had been toiling laboriously during the eighteenth century. They were hardly aware how nearly their halting footsteps had brought them to the promised land of self-government in 1795.

The teachers were able and determined, and the example they set would have been plain if their pupils had been able to read their newspapers or associate with them regularly; but being unable to command the English language, and residing at considerable distances from the newcomers, the burghers can hardly be blamed for failing to master the lesson rapidly. No nation can unlearn all the lessons of its past history and acquire a new set of political ideals within the space of ten years. And there was the grave complication that the people were under a foreign rule and that they were intensely conscious of the fact. Nor did the Government give a distinct lead. It was never clearly and authoritatively stated in a manner that could be understood by the bulk of the inhabitants that there was a real intention to grant them at some future period the management of their own affairs. On the contrary, the Council as set up in 1825[1] denied all hope, for it consisted only of officials over whom the Governor had up to that time exercised the most complete control, and who were not in any way expected to represent the wishes of the people. The members were to discuss and vote on measures proposed by the Governor, but any member might request him in writing to bring up for consideration any matter. It rested with him to decide whether this would be expedient. He could act without the concurrence of a majority of his Council, but he was not authorised to act in important measures without a previous communication with them. If after such communication he took upon himself to act in opposition to their opinions he incurred a responsibility which it might be quite necessary to take, but with regard to which he was then bound to satisfy the Secretary of State for the Colonies. The Governor could suspend any member on grave issues demanded by the public

Difficulties in the way of co-operation between the colonists.

The Council of 1825.

[1] No. 18.

interest, but here again the step had to be fully explained and justified.[1] Here was a first step preliminary to the introduction of representative government. No one yet thought of self-government. That was to be first invented in Canada. But the intention was to establish a legislative assembly as soon as the older inhabitants should acquire a command of the English language, and measures for the amelioration of the slave population should place the slaves beyond the reach of colonial legislative control. The burghers were not attached to the institution of slavery. Before the close of the eighteenth century, and during the early years of the nineteenth, they had several times been on the point of stating in so many words that the whole system was bad, and should be swept away. This was one of the chief items of the policy of the Batavian Government during the years 1803–6, but by 1830 it was the earnest wish of the inhabitants of the Cape in all walks of life.

The Colony's attitude towards slavery.

In June 1828 there was started the Cape of Good Hope Philanthropic Society,[2] for aiding deserving slaves and slave children to purchase their freedom. The aim was to manumit as many female slave chilren as possible between the ages of 3 and 12, but without causing grave pecuniary loss to their masters. The Governor was the patron, and subscriptions were collected for accomplishing the object of the society. The whole number of female slaves born annually did not exceed 600. A number of slave children were actually freed in this way at an average price of less than £20, so that £12,000 per year would be needed to prevent the increase of female slaves. Many owners of slaves were zealous supporters of the society. If the funds could be regularly procured not a single slave would be born after 30 years and very few after 20. Slaves of a certain age became free by an old law of the Colony. If in addition to the work done by the society the Cape revenue could be charged with twenty or thirty thousand pounds per annum towards this worthy object, every slave would be liberated in less than ten years' time without any cost to the British taxpayer. Petitions and addresses asking that such a scheme should be adopted were all futile, though they were warmly supported by the Governor. And if the further colonial programme embodied in resolutions passed in various parts of the country which offered to declare every slave free at birth [3] were also worked out, there would not have been a slave to set free by the end of 1838; but the intentions of the Colony were distrusted in political, missionary, and philanthropic circles in England, so that the emancipation was eventually effected by an Act of the Imperial Parliament.

[1] *Rec.* XX. 5–6. [2] *P.R.O.*, MSS and pamphlets in *C.O.* 48/131 and 48/141.
[3] Theal, *Prog. of S.A. in the Cent.*, pp. 185–6.

Another item of Batavian policy that was carried out by the new Council was the consolidation and extension of Hottentot liberties.[1]

The Council in 1827 and 1834.

In 1827, when the old jurisdictions of the local boards were about to be removed,[2] two burghers were appointed to the Council, but they were pensioners of the Government and were not looked upon by the colonists as representing their interests. Six years later a new constitution came into being. There was to be an Executive Council of five officials of the Government and a Legislative Council consisting of the same five officials, together with five, six, or seven unofficial members selected by the Governor from among the most considerable merchants and landowners of the Colony.[3] The unofficial members could be dismissed by the Crown within two years of their appointment, but if not so dismissed they were to retain their membership during good behaviour. The public were now allowed to attend the Council's meetings. Within eight months of the first meeting of the new legislature the colonists began to draw up another of their numerous petitions for representative government, but without gaining any further concessions. The Legislative Council was not in existence many years when the Great Trek [4] commenced. It was not in any way responsible for that movement. On the contrary, it did what lay in its power to check the emigration by restoring to the people a fraction of their old local liberties,[5] while one of its members went out of his way to plead the cause of the burghers as regards their district boards, which he stated was also the cause of progress and wise government.[6]

The Charters of Justice, 1827 and 1834.

Meantime the old Court of Justice was abolished and by a Royal Charter of 1827 a bench was created consisting of four judges. That instrument was superseded by another Charter of Justice in 1834.[7] Up to this time the Governor had appointed and removed the judges at pleasure, but when the first Charter was issued the judges held office during good behaviour, and it was pointed out by the Secretary of State that the Governor's interference in the administration of justice between individuals would entirely cease.[8] It was thought that the immediate substitution of English Law for the Roman-Dutch Law then in existence would be too sudden a change and would give rise to much confusion. The assimilation of the law of the Colony to the law of England was therefore to be gradual. To carry out

[1] No. 20. [2] Nos. 54 and 73. [3] *Cape Town Gazette*, Jan. 1834.
[4] As the Great Trek of 1836 led to the settlement of Natal and the two Republics the matter will be discussed under those headings.
[5] No. 55.
[6] *Colonel John Bell to R. W. Hay*, 7 June 1834. *P.R.O.*, MS. in *C.O.* 48/159.
[7] No. 76. [8] *Rec.* XXXII. 254 ff.

this plan smoothly the judges were ordered to submit drafts of laws to the Governor as occasion offered for amending the existing civil and criminal code. In this way commenced a process by which the best elements of the two systems of law were gradually amalgamated. The establishment of trial by jury in criminal cases was one of the features of the 1827 Charter. Under Dutch rule the institution had been quite unknown, but its absence had been compensated for by the presence as judges or magistrates of several members of the burgher class in each of the courts of justice. It was in terms of the Charter of Justice, too, that Resident Magistrates were appointed to the various districts.[1]

Growth of a liberal colonial policy in England.

Between 1840 and 1850 the demands on the part of the colonists for representative government became very insistent and they kept pace with the growth in Great Britain of a liberal spirit which manifested itself during this decade. With the growth of the free trade movement which came to a head in 1846 and 1849 and of liberalism in general came a ready willingness to allow the colonies to manage their own internal affairs. Not that people were indifferent towards the colonial empire or believed that in any case the fruit would drop from the tree when ripe, for some of the most fervid advocates of colonial self-rule, like Lord Durham and his circle, were the staunchest of imperialists. Rather, it was felt that the colonies were outgrowing the systems of the later eighteenth and the early nineteenth century, and that the true way to maintain the interests of the Empire intact was not—as was believed for a long time after the American Revolution—by keeping the various sections under paternal guardianship. With regard to the Cape Colony imperial statesmen believed that this was particularly the case. All that could be done to discourage the Dutch burghers from joining their countrymen across the Orange and the Vaal should be done; and in 1849, when the Secretary of State sent a number of convicts to the Cape against the wishes of the inhabitants, the opposition which his scheme encountered came as a revelation, the chief feature being the perfect co-operation of the British and Dutch colonists in the stand they made. In attempting to carry out the policy of the British Government the majority of the Cape Council completely lost the confidence of the bulk of the inhabitants.

As soon as this became clear in England it was decided to modify the resolution, already taken, to establish a bicameral legislature with a nominated upper chamber, as requested by the colonists in their petitions, and to erect instead an elective upper house. Another reason given for the change

[1] No. 73.

was that it was feared that some of the most eligible men who could be elected to the lower house would be unwilling to serve if the upper consisted of nominees.[1] After the convict agitation there was no longer any room for a nominated body in the Colony. Reference was also made to the British colonies generally and to Canada in particular, and it was pointed out that the nominee house had proved to be the weak spot in all the constitutions where it existed. Thus, by the decision of the home Government the Cape received a constitution[2] far more liberal than that of any other colony except Canada—where the principle of responsible government had been introduced in 1846[3]—and of a more thoroughly representative type than that which the inhabitants had asked for. Not for several years to come was any of the colonies of Natal or the Australian settlements to win such liberal forms of government, though at the middle of the century changes in colonial constitutions were the order of the day.

Reasons for granting an unusually liberal constitution.

An elective second chamber was not the only remarkable feature about the new constitution. The franchise was in effect quite low: male persons of any colour who occupied property to the value of £25, or drew a salary of £50 per annum or of £25 per annum with board and lodging, could vote. There had been some difference between the British and the colonial authorities on this point, the Cape Council having desired to fix a property qualification; but the Government in England insisted on an occupancy qualification only, in the hope of placing the more advanced section of the native population in possession of the franchise. Something was certainly gained in the direction desired, but the bulk of the coloured people was hardly benefited at all.

Another difficulty was how to prevent the upper chamber, the Legislative Council, from being a mere duplicate of the lower. The old plan of having an upper house of nominees to safeguard the interests of the Crown having been abandoned, what function remained for this Council to perform? As a matter of fact, it probably was throughout its existence next to useless; but it was intended to represent the landed class which constituted the bulk of the population, and to prevent legislation arising from panic or any other temporary force from being effected without deliberate consideration and discussion. Both houses were elected on the same franchise, but while members of the Legislative Assembly were to possess only the qualifications of an ordinary elector, those of the second chamber were to have a high property qualification

[1] Hansard, 3 S., vol. 118, pp. 725–6.
[2] No. 29.
[3] Merivale, *Lect. on Col.*, p. 636.

and to have reached the age of thirty years. By further provisions which had the same object in view, the forty-six members of the Assembly were to be elected by twenty-two constituencies, while those of the Council were chosen by only two constituencies, the Eastern Districts and the Western Districts, in which the electors could distribute their votes exactly as they pleased. If wisely worked this last arrangement could provide for the representation of minorities.

East v. *West in the Colony.*

The division of the Colony into Eastern and Western Provinces for electoral purposes was significant, for it arose from a desire on the part of the eastern inhabitants either to have a government of their own, or to have the seat of government in the east. They were mainly of British descent, and feared that if they were represented in a legislature sitting at Cape Town they would be at the mercy of the inhabitants of Dutch descent who were in the majority. Besides, they were near the Kaffir tribes and had often had to bear the brunt of a Kaffir invasion while troops were being hurried from Cape Town over the six or seven hundred miles of road to their assistance. If a government were situated at Grahamstown it could direct the management of the eastern border more satisfactorily. For these and other reasons the majority of the people of the Eastern Districts had been agitating for a division of the Colony, but ultimately the decision of the matter lay with the imperial authorities, and the people who had only lately united the two Canadas could hardly be expected to retrace their steps in South Africa where somewhat similar conditions prevailed. The firm attitude they adopted probably no one regrets to-day. In 1850 the interests of the Colony as a whole and those of Great Britain were really identical, for the Eastern Province standing alone could not have coped with the pressing troubles incidental to the presence of powerful native tribes on its borders, and would have had to rely on the assistance of the Government in London. This would have meant the continued presence of strong forces paid out of the imperial treasury and consequently an extended period of paternal rule; for, when once separated from the rest of the Cape Colony, the Eastern Districts would probably not have looked for aid to the Western Province any more than they would have looked to New Zealand or Jamaica. Moreover, in the Western Districts was a minority of burghers of British descent, while in the Eastern Districts there was a strong minority of Dutch extraction. It would have been a temptation difficult to resist for the majorities in each half to ignore the interests of their respective minorities, but as matters remained neither party was so overwhelmingly powerful in the common Parliament

as to be able to neglect the interests of the other. On the other hand, if the parties continued to stand on national lines and emphasise national aims, they were none the less made to see the necessity of co-operating, to acquire the frame of mind which recognised that mutual respect and goodwill were indispensable, and in course of time the lines of cleavage were bound to become less and less pronounced. Had the British Government not benefited by the Canadian object-lesson, had they been swayed by the exigencies of the moment instead of looking ahead, co-operation and union in South Africa would undoubtedly have been more difficult of accomplishment than has been the case. As it was, they practically placed the power to legislate for the country into the hands of a majority of Dutch-speaking colonists, fully knowing that they were doing so, and fully aware that this would be the situation for many years to come. Indeed, no other course was open, for numerically and economically the older inhabitants were incomparably the stronger. Yet, not to deny the request of the British settlers absolutely and irrevocably, they empowered the Governor to call the new legislature at any place which he might consider best, and permitted that body to make any alterations that might seem desirable. The first meeting of the first Parliament held on African soil came together in Cape Town on the 30th of June 1854.

§ 2. The Cape of Good Hope, 1854–72.

What representative government meant.

Though the legislature was wholly elective except for the presidency of the Legislative Council, which was occupied by the Chief Justice in virtue of his office, the executive power remained in the hands of a body of high officials, the chief of whom occupied seats in either house though without the right to vote. The Colony had thus reached a stage similar to that at which England stood during the early years of the eighteenth century, before Sir Robert Walpole became the chief Minister. The legislature was an elective and representative body, but the Ministers were still appointed by and responsible to the Crown. But in Great Britain there was an upper house which was for the greater part non-elective and non-representative, so that in this respect the colonial legislature was from the very start ahead of the Mother of Parliaments. There was, too, another point of importance. In 1775 Edmund Burke made it clear to his electors at Bristol that in every question brought before Parliament it was he as member who was to decide, and not they as constituents. This principle, it has been said by a

distinguished author[1] who ought to know, is still the guiding principle of most members in Great Britain to-day. At the Cape this principle was denied from the very start. Members, when elected, were instructed—there is no other word to use—to act on broad issues in a certain way. Had they not signified their intention to act in such a way they would not have been elected; and having signified such an intention, and having been consequently elected, they were bound to adhere to their undertakings or to resign their seats. If it were not so, democracy would not be anything real, and party government would be an oligarchic rule. So many thousand men selected one man to represent their views on certain matters and to do his utmost to get those views enforced. If at any time he found that he could not continue to support those views, it was his duty to make place for some one who could, though nowhere in the Empire has a law yet been passed compelling him to do so. Occasionally a member would be sent to Parliament on the understanding that he would act at his own discretion; then the case was different. And there were always numberless matters on which a constituency could not, or at any rate did not, make up its mind. In every such case the member would act as seemed best to him. Of course the system could not have been worked out with ease but for the advent of railways and telegraphs; but even as matters stood in 1854 the responsibility of members to their constituents, which was admitted on all sides, was preparing the way for party government with all its advantages and drawbacks. The difficulties that stood in the way of making the executive responsible to the legislature seem very trivial to-day.

The Colony desires further power.

Less than two months after the first session of Parliament commenced, a motion was brought before the Legislative Assembly stating that the experience of the session showed that hitches in the free-and-easy action of the legislature had occurred through the absence of responsible Ministers. This opinion was to be laid before the Secretary of State with the request that he might be pleased to convey to the Colonial Government the conditions on which responsible government could be conceded to the Cape.[2] Early in the next year a motion to this effect which also provided for the appointment of a select committee to consider the question was carried by 23 votes to 9. A month later a similar motion came before the Council which declared "That in the opinion of this Council the principal officers of government should be appointed by the Governor, from among the members

[1] Sir Courtenay Ilbert, *Parliament*, pp. 159–60.

[2] *C. of G. Hope Votes and Proceedings* (No. 132), p. 152.

of both Houses, and that they should hold office only so long as they possess the confidence and can ensure the co-operation of the legislature." [1] On the part of many men in Parliament and in the country there was a strong desire to proceed to the further step as soon as possible. Select committees appointed by both houses recommended the change, but the Government in London naturally wished to see first how the new institution would work. Besides, there were other pressing matters enough to consider. One of the first measures adopted provided for the introduction of trial by jury in civil cases.[2] The country had got over its early objection to the jury system. Then came the creation of Divisional Councils to manage the several districts much on the same lines as the old boards of landdrost and heemraden had done, except that the members of the councils were now made not only to be representative of the people but actually elected by them.[3]

Growth of political parties.

There were certain issues before the country on which the electors and the members of Parliament gradually ranged themselves into two main parties. On the question of the introduction of convicts the population had been all but unanimous. There had been a small section centring round the editor of the *Grahamstown Journal* which supported the scheme, but it was not strong. On the question of granting representative government there had been a party, small but able and determined, which desired to reject the scheme of an elected upper chamber, and some of whose supporters had also favoured the introduction of convicts. These men had a paper too, the *Cape Monitor*, which may be described as the government organ of those early days. Directing its efforts towards the postponement of the representative government plan had been a strong party which voiced their opinions in the former of these journals. After 1854 this section continued its efforts to obtain either a division of the Colony into two parts or the transference of the seat of government to Grahamstown. They fought the first and the second election mainly on this issue, and when the matter was brought up for discussion in the Assembly it gave rise to some of the most dramatic scenes witnessed in the Cape Houses.[4] But the majority of the people were opposed to separation, and the plan was badly defeated in 1861. The desire to separate was entertained mainly by the burghers of British stock residing in the south-eastern parts of the Colony. It was in the main the same people who opposed the grant of responsible government for the same reasons as they had

[1] *Minute XL. of the C. of C. Hope Legisl. Council*, p. 3.
[2] No. 79. [3] No. 57.
[4] J. H. Hofmeyr, *Het Leven van J. H. Hofmeyr*, p. 104.

opposed the establishment of representative institutions, though there were throughout the Colony men who wished to see self-government postponed, but for different reasons. It was feared by the conservative element in the country that a leap taken too soon would fail to reach the mark, for, they argued, the men who were to take responsibility for the performance of ministerial functions had still to be trained. This view was defended by one of the Dutch journals, *De Volksvriend*. On a third question the issue was not so clear, though it was roughly the same leaders of public opinion who stood for a united Colony, for responsible government, and for the voluntary principle in the churches. By the last phrase they indicated that State assistance to a few favoured denominations like the Dutch Reformed Church and the Anglican Church should cease. It may be argued that these issues were of temporary interest only and could not have divided the country permanently on party lines. That is true, but the fact is that they were not so much issues in themselves as manifestations of party feeling which had existed all along, but which came definitely to the surface in connection with discussions relating to the constitution. The attempts made from the early years of the century to change the language of the Dutch burghers had not been successful, the removal of their old institutions had given them a grievance, and the recent annexation of the Orange River Territory to the British Empire had caused much ill-feeling towards the British Government and towards their fellow-burghers who supported it. In the country itself the chances of co-operation between the British and Dutch colonists had been so few that national divisions had not yet had a chance of being obliterated. What was needed was some firm common ground on which they could meet, and this had not yet shown itself, so that political parties were also national parties. Yet it should be understood that during the period of representative government the parties were by no means well organised or even so clearly defined as they afterwards became. One incident that helped to keep English and Dutch apart was when in 1865 the Cape legislature was made to annex Kaffraria in response to the wishes of the eastern inhabitants after it had refused to do so.[1]

The question of defence.

The question of responsible government was intimately connected with the questions of expansion and defence. Up to about the year 1833 the burghers had been largely responsible for the defence of their own frontiers against the natives, but on philanthropic grounds the commando system which was in vogue was objected to in England, though in 1852 it was advocated for readoption in

[1] Corresp. rel. to the Annexation of Br. Kaff., presented 10 Feb. 1865. Cf. No. 32.

the House of Commons.[1] Then imperial troops had been employed to assist with the Kaffir wars. By 1850 the military expenditure supplied from the imperial treasury was amounting to about £3,000,000 per annum for all the colonies. This sum amounted to less than 9s. in the pound on British exports to the colonies. This state of affairs had improved the chances of colonial self-government, for it had forced colonial statesmen in England to lay down the thesis that "if these colonies were governed as they ought to be governed, no troops ought to be maintained in them at the expense of the United Kingdom, except for strictly imperial purposes, and that the expenses of all troops required for local purposes ought to be paid by the colonies."[2] Therefore the local government should be given the direction of the officers who managed relations with the frontier tribes. It had been adopted, then, as a standing rule of the Empire that when responsible government is given to a colony it must provide for its own internal order and for its defence against savage peoples on its borders.[3] At the Cape this caused some of the people to waver in their desire to possess full self-government, but the real opposition to the scheme came from the men from the East, who believed they would see as a result of the withdrawal of paternal government a neglect of their special interests. It became known in 1867 that the imperial authorities, desirous of establishing government by responsible Ministers, intended to withdraw the troops in any case. By that time it had become abundantly obvious that the activities of the executive and the legislature were bound to end in a deadlock, the former having repeatedly spent much more money than had been authorised by the latter. Finally, the Governor began to make proposals which, if carried out, would place all control in the hands of the Executive Council. Under these circumstances the party opposed to responsible government lost ground, and after some difference on the subject between the Legislative Council and the Assembly a Responsible Government Bill[4] was passed in 1872 and, after being reserved by the Governor, received the royal sanction before the end of the year.

§ 3. The Cape of Good Hope, 1872–1910.

Political training of the colonists.

During the responsible government period of the Cape of Good Hope there is a good deal of parliamentary history, but little constitutional history. The Colony was now two hundred and twenty years old, and two hundred years before the grant of responsible government the burghers had been given the direction of

[1] Hansard, 3 S., vol. 120, p. 736.
[2] *Ibid.* vol. 115, p. 1372.
[3] Cf. [C.-3280], pp. 1–15.
[4] No. 34.

their everyday life in their local courts and boards. Though that privilege had been gradually removed during the years 1806 to 1828, the arrival of the British settlers from 1820 onwards had caused them to cultivate an interest in the activities of the central government which had been too often lacking during the first quarter of the nineteenth century. The justices of the peace [1] and the field-cornets throughout the country had been passing through a period of apprenticeship in the art of government. The training and experience gained in the municipal boards and the road boards [2] was also valuable, whilst the civil commissioners and resident magistrates were a valuable class of public officials on whom the Ministers were to rely in years to come for information on matters of the most varied nature pertaining to their respective districts. Perhaps there was no other class of civil servant which contributed so much to the success of legislation or the smooth working of the administration as these officials. The experience which an important body of men had been gaining in Parliament since 1854, and the education which the whole of the population had undergone during the election contests and through the English and the Dutch press, prepared for the smooth working of the new form of government. After the Bill of 1872 had been adopted by both houses of the legislature the Eastern Province party again moved for a division of the Colony; but as the local aspirations of Grahamstown, Port Elizabeth, and King William's Town could not be accommodated, and as the midland districts included in the Eastern Province were opposed to separation, the scheme was eventually abandoned.

Unification of the Colony and the re-emergence of the people.

Indeed a movement in the opposite direction had set in. Instead of the two constituencies into which the country had been divided for the election of members of the upper chamber, which had done so much to keep the separatist spirit active, it was proposed to form seven electoral divisions. The number of elective members was now twenty-one, so three members could be given to each constituency, and electors could be allowed to give all their three votes to one candidate or to distribute them as they pleased, thus extending to definite small areas the principle of the representation of minorities within those areas. The measure was adopted in 1874,[3] and constituted in a mild way a victory of the farming community over the townspeople, while it obviously made the Legislative Council more representative of the Colony as a whole than it had been before. The members now held their seats for seven years instead of ten, and consequently were more under the control of the electorate than

[1] No. 72. [2] No. 56. [3] No. 35.

they had been before. Another measure that bore clear evidence of the rising influence of the country people was the first Act passed in 1882 which permitted the use of the Dutch language in both houses of Parliament.[1] And this privilege was soon extended to the courts of law.[2] During the last thirty years of the century various native territories were annexed to the Colony, thus adding a considerable number to the native population. It was considered desirable, therefore, to require a slight education test of all new applicants for registration as voters, and at the same time other qualifications of electors were also raised.[3] The next great constitutional step that affected the Cape of Good Hope was the Union of the South African colonies. A word must now be said about the High Commissionership, an office which contributed a good deal towards the achievement of that end.

SECTION III.

THE HIGH COMMISSIONERSHIP FOR SOUTH AFRICA.

On the 10th day of October 1846 the Governor of the Cape was appointed "Her Majesty's High Commissioner at the Cape of Good Hope for certain purposes."[4] In part this was intended to give a more formal recognition to the authority which the Governor had exercised till that time, in part it was laying duties till then performed by the Lieutenant-Governor of the Eastern Districts on the supreme authority at Cape Town; but it was also a measure intended to meet the growing complexity of South African affairs.

The needs to be met by the office.

Firstly, the Governor had from the commencement of British rule managed the relations of the Colony with adjoining native tribes subject to the direction and control of the Government in London. These powers were exercised by him alone till on the appointment of a Lieutenant-Governor for the Eastern Districts in 1836,[5] the second phase opened. The Governor's authority began to be shared in this respect by the new official. During the next ten years treaties with natives were concluded by both men, but the acts of the Lieutenant-Governor had to be ratified by his superior. In 1845 the office in the east began to fall into abeyance, though it survived in a tentative sort of way for a few years longer. In the third place there had arisen other European communities in Natal, in the Orange River territory

[1] No. 38. [2] No. 86. [3] No. 48.
[4] *Parl. Papers, C. of G. Hope, Kaffir Tribes*; Feb. 1848, p. 5. [5] No. 25.

and across the Vaal, creating a diversity of problems which seemed to call for a special delegation of powers by the imperial authorities.

The functions of the High Commissioner.

The commission of 1846 did not yet employ the phrase "High Commissioner for South Africa," but this was a mere detail. That official was appointed "for the settling and adjustment of the affairs of the territories in Southern Africa adjacent or contiguous to the eastern and north-eastern frontier" of the Cape Colony, and he was to take measures to prevent attacks of the native tribes inhabiting those territories and to place them under some settled form of government. Subsequent commissions conferred similar powers, though the manner of exercising these was prescribed in greater detail as time went on. In 1849, after assuming authority over the Orange River Territory, the High Commissioner solicited and obtained a commission appointing him Governor of the new dependency. A similar procedure was adopted at the end of the South African War with regard to the Orange River Colony and the Transvaal. The High Commissioner came to hold a multiplicity of offices. At various times he became the supreme head of such territories as Griqualand West, Basutoland, Bechuanaland, Rhodesia, etc., receiving instructions as to the functions he was to perform in each.[1] He was the representative of the Crown in the sub-continent, the link uniting all the varying conditions of the various peoples, the unifier of policies, the Empire's agent.

His success due to his office as Governor of the Cape.

But he became all that only because he was as a rule the Governor of the Cape Colony. Till about the year 1890 South Africa's mother-colony surpassed all the other territories put together in wealth and importance. In extending her South African empire the home country was wise enough to employ as a stepping-stone the foothold she had won. The High Commissioner was Britain's right hand, the Cape Colony was her lever. Sometimes the Colony grumbled and occasionally she maintained an attitude of passive opposition, but in the end, with perhaps one or two exceptions, she always adopted the desired course. From the outset the governorship and the high commissionership were inextricably interwoven. The High Commissioner employed the public seal of the Colony for his formal official acts. His legal adviser was the Attorney-General of the Cape Government, and when he proposed to take an important step he consulted at first his Executive Council in an informal manner, and after responsible government was introduced, his Ministers. As most of the native territories

[1] See, e.g., *Parl. Papers, S.A.*, 130, 14 Ap. 1905.

were made dependencies of the Cape of Good Hope any other course would have been open to serious objections. We are fortunate enough to possess an authoritative statement on the practice that came to govern the relations between the High Commissioner and the Cape Ministry. In 1888, in reply to a question put in the Legislative Council, the Treasurer-General stated: "It is not the duty of the Ministry of this Colony to advise the High Commissioner. Their duty as Ministers is to advise the Governor of the Colony. And the High Commissioner has powers which he exercises as High Commissioner, with which powers the Government of this Colony have no constitutional right to interfere. At the same time he (the Treasurer-General) wished it to be understood that the relations between the Ministry of this Colony and the High Commissioner are as good as can be desired. And although it is not the duty of the Ministry to advise the High Commissioner, nor is it the duty of the High Commissioner to inform the Ministry of this Colony what he is doing as High Commissioner, yet the relations between the two authorities are of that character that whenever the High Commissioner is acquainted with anything going on that may have a relation to, or some effect upon, the interests of this Colony, he does not fail to communicate with the Ministry upon that subject. At all times he is ready to confer with the Ministry on any subject that may have any relation whatever to the interests of this Colony."[1] So far had constitutional practice outstripped the written law that when the Secretary of State's attention was drawn to this statement he had no criticism to offer. It would be difficult to think of any important subject whatever on which the High Commissioner was called upon to decide, which had no relation whatever to the interests of the Cape Colony, so that as a rule the High Commissioner conferred with the Cape Ministry on steps he was about to take. But like most other rules this one had exceptions, both before 1888 and thereafter.

SECTION IV.

NATAL, 1835–1910.

For the sake of clearness of treatment it is convenient to divide the constitutional history of Natal into five well-marked periods:

(1) 1835–38.
(2) 1838–44.
(3) 1844–56.
(4) 1856–93.
(5) 1893–1910.

[1] [C–5488], pp. 21–2.

§ 1. NATAL, 1835–38.

British settlers in Natal.

By the year 1835 a small number of British settlers had congregated round Port Natal for the purposes of hunting, trading with the natives of the neighbourhood, and engaging in adventures of various kinds. They were quite unconnected with the British Government or with the Government of the Cape Colony. In that year they first formed the semblance of a government by appointing a committee of management of their affairs whom they authorised to levy certain taxes and to perform some public duties, mainly for the purpose of granting and distributing land in freehold among themselves, for from the start these immigrants had been occupying waste land round the Bay, and they desired to show some form of legal right to the tracts on which they had settled. Under the authority of the committee they proceeded to make grants along the coast, restricting the size of their farms to 3000 acres. The boundaries of these farms were never measured or clearly defined, an approximate estimate was all that could be made and care was taken not to encroach on their neighbours' lands. The town of Durban was already growing up, and from that port as well as from Cape Town requests were sent to England asking that British authority might be established over the district, one of the chief reasons given being that the United States was likely to found a colony in the territory. Colour was given to the statement by mentioning that a number of American missionaries had arrived in the country. The Colonial Office, however, took no steps, so that the small community had to plod along as best they could. Some of the white men gathered round themselves a number of native retainers, thereby gaining the status of petty chiefs in the country,[1] and presently they got involved in native disputes. In the year 1838 an unwise attack was made by a large portion of the British settlers at the head of a number of natives upon Dingaan, the Zulu King, when they were destroyed almost to a man. Most of the properties were thus left unoccupied, and when a British Commissioner[2] visited Natal in 1843 he found that only two farms had been regularly occupied for any length of time. While Dingaan was destroying the white inhabitants from the Bay, Natal was being entered by Europeans from another quarter.

[1] *Cf.* No. 91.

[2] *H. Cloete's Report on Lands in Natal*, addressed to Secretary John Montagu, Cape Town, 30th May 1844. *P.R.O.*, MS. in *C.O.* 48/247.

§ 2. Natal, 1838–44.

Causes of the Great Trek from the Cape.

The causes of the emigration of Dutch farmers from the Cape Colony in 1836 and subsequent years were of various kinds with different individuals. They arose mainly from an unwillingness to be ruled over by a foreign power, from the absolutism of the rule, the loss of their local governing bodies, the refusal to grant them representative institutions, the many harsh laws made for the better treatment of slaves, the absence of adequate compensation when their slaves were set free, the lack of protection against native attacks. Most important of all the factors was the desire for independence, the republican spirit, which had grown strong by a slow but steady process during the eighteenth century, the spirit which has always been revealed in course of time by colonies planted in every age and in all latitudes, and which at the Cape had been cultivated by the liberal district government arrangements, by the vast distances of the country, and by the looseness of the government of the Netherlands Company. The chief circumstances leading up to the Great Trek which were uppermost in men's minds at various periods are indicated in the documents,[1] but of course there were some factors which operated subconsciously and others which could not be openly talked about when addressing an English governor, and these can only be gleaned by a careful study of the character of the Dutch burghers, of their previous history and of their subsequent enterprises. If it is the historian's task to *interpret* events as well as to chronicle them, he will seek for the connection of the Great Trek with the history of the seventeenth and eighteenth century as well as the early nineteenth, and he will further consult the story of the trekkers in the later nineteenth and the twentieth century.

British policy towards the emigrants.

Having been advised by the Attorney-General that there was no convenient power by which the thousands of departing emigrants could be prevented from leaving the Cape Colony,[2] and having been informed by the Lieutenant-Governor of the Eastern Districts that it was impossible to employ force to keep them in the country, the Colonial Government adopted two outstanding lines of policy with regard to the expatriated burghers. In the first place, they laid down the theory that the emigrants continued to be British subjects and liable to be dealt with according to British laws no matter where they went.[3] Secondly, they acknowledged the authority of some native chief or other over tracts of territory in which the emigrants

[1] Nos. 92, 100, 106, and 107. [2] No. 93. [3] Nos. 94 and 104.

had settled or seemed about to settle. This was done either explicitly by means of a formal treaty or by negotiations of a more or less confidential nature, or implicitly by siding with the tribes with whom the emigrants came into conflict. As an aid to this second line of policy they prevented, as far as lay in their power, the sending of fresh supplies of ammunition with a view to making it impossible for the emigrants to commit acts of aggression against any of the native tribes. Great Britain was the paramount power in South Africa. She was bound to grow progressively stronger. For better or for worse she believed that she had the advancement and well-being of hundreds of thousands of natives in her keeping. If her policy has been at times tentative and uncertain in many respects, her representatives have steadily attempted to maintain the welfare of the coloured people when they were at issue with the white men. As the farmers trekked eastward and north-eastward in various parties they gradually formed themselves in the course of several years into three main groups, settling in the territories now called Natal, the Orange Free State, and the Transvaal. It is with the first of these groups that this section of the work has to deal.

Settlement of the emigrants in Natal—their constitution.

Securing the cession of a large tract of land in Natal from the Zulu king for services rendered in 1837,[1] this group of emigrants became firmly established in the country in the course of the next two years, deposing Dingaan who acted treacherously and setting up another in his stead. A British force had lately been stationed at Port Natal, but it did not interfere much with the emigrant community which had settled further inland. As to the form of government established by the farmers, each party elected a leader, whose orders they generally obeyed while trekking. He was generally styled the Commandant. It was his task to see that the members of his party performed such duties as they were familiar with according to the old Cape burgher laws. Some time before the negotiations with Dingaan, one of the most able leaders, Pieter Retief by name, was elected a sort of commandant-general. Curiously enough he received the title of "governor," intended to signify, no doubt, that he was to exercise authority over all the farmers of the neighbourhood. Towards the end of the year 1838 there was a Volksraad, *i.e.* a legislative body chosen by the people. The members seem to have belonged to one of the largest parties then in Natal. Gradually matters shaped themselves as the danger of fresh attacks from the Zulus became less menacing. From a letter written by Captain Jervis, the commander of the British garrison at

[1] No. 95.

the Port, and dated 27th March 1839,[1] it is plain that a large body of emigrants had by that time concentrated at the Bushman's Rand, the present site of Pietermaritzburg, with the intention of laying out a town there. They had already elected a Volksraad of 24 members, one of whom they had appointed President. Judicial functions were exercised by magistrates called landdrosts, each of whom was assisted by six heemraden, elected annually. The landdrosts tried summarily all criminal cases in which fines could be imposed amounting to 20 Rix-dollars. Sentences inflicting heavier fines were subject to appeal to the Volksraad. In case of murder or other very serious charges the magistrate was at liberty to swear in a jury of twelve who found the verdict. In such cases the landdrost and the heemraden merely investigated the charges. The constitution of the Republic embodied every principle of government that the people had been striving to establish during the previous seventy years, and the peculiarly English institution of trial by jury with which they had become acquainted in the old Colony suited their democratic ideals entirely, hence its adoption.

Negotiations with foreign powers were carried on and letters were signed by the Volksraad as a body. In practice drafts of laws were submitted to the people for their endorsement or rejection. The State was small and its smallness made the procedure quite easy.

Was it a State at all, and is it correct to speak of the Republic in Natal? A constitutional lawyer would probably answer the question in the negative. The emigrants were claimed as British subjects, and an Act of the Imperial Parliament had referred to them as such.[2] Parliament could undoubtedly legislate ex-territorially for British subjects, if they *were* British subjects. Did they remain British subjects merely because they were regarded as such? Was it possible for them to discard their status as subjects if they chose to become subjects of another state, but impossible to lay aside that status when they moved into unoccupied regions? The Republic was never recognised by any Power, and international usage seems to demand that states newly created should be recognised by other civilised states. Had the problem been brought before an impartial arbitration court it would have made one of the most interesting test cases in the history of the world. *De jure* there may never have been a republic in Natal; that such a state existed in fact is obvious. It provided for its government, administered justice, levied taxes, waged war, and concluded treaties without reference to any other power. When the troops were

Status of the emigrants.

[1] *P.R.O.*, MS. in *C.O.* 48/200. [2] No. 94.

withdrawn from the Port in 1839 the British subjects remaining there readily submitted to the Volksraad.

Annexation of Natal.

The interests of the British Empire could not permit an independent state to grow up on the south-eastern seaboard of Africa. A proclamation was issued in 1841 by the Cape Governor [1] and military possession was taken of Natal. Protracted negotiations followed and a good deal of fighting, till towards the end of 1843 a portion of the emigrant community capitulated and the rest trekked northward to join their comrades beyond the Drakensberg. Those who intended to remain behind made certain demands [2] which if conceded would have placed them in the situation of an average British colony possessing representative institutions but without responsible government. No notice was taken of the document embodying their requests. The next year Natal was annexed to the Cape Colony [3] and the infant Republic ceased to exist.

§ 3. Natal, 1844–56.

Legislation for Natal by the Crown.

Intimately connected with the problem whether or not Natal was a Republic prior to the year 1844 is the further question whether after its annexation it was to be regarded as a Colony acquired by conquest or cession or by settlement. Up to the year 1887, when an Imperial statute gave full power to the Crown to legislate for all newly acquired colonies where there is no existing civilised government, British constitutional theory said that colonies acquired by settlement were not subject to the legislative power of the Crown in Council, unless they were made to be so by an Act of the Imperial Parliament. Colonies acquired by conquest or cession, on the other hand, fell directly under the legislative power of the Crown. Cession is often a formal recognition of conquest. Now for a good many years the Crown did in fact issue laws for Natal, so that the conclusion must be, that the imperial authorities in 1844 and subsequent years regarded the new territory as having been acquired either by conquest or by cession. No formal deed of cession was ever shown, only a general statement by the Volksraad that they would not oppose the annexation by forceful means. But this took place only after the emigrant community had actually been fighting to oppose British occupation and when they had become convinced of their inability to carry the struggle to a successful issue. Natal then was acquired by conquest, and the instruments

[1] No. 104. [2] No. 107. [3] No. 109.

regulating its government down to the year 1856 were issued on the authority of the Crown in Council.

Legislation by the Cape Council.

For one year Natal formed an integral part of the Cape Colony, but the Cape legislature had to pass special laws for the new district and could not apply any old laws or institutions to it without such specific enactment. This arrangement continued even after provision was made in 1845 for a separate government in Natal with a Lieutenant-Governor at its head.[1] Till 1847 the Governor and Council legislated for Natal, setting up municipal boards,[2] field-cornets, justices of the peace, and resident magistrates in imitation of the Cape models. A district court[3] consisting of one judge appointed by the Crown and holding office during good behaviour was also erected, and the Roman-Dutch Law was established.[4]

Desire of the Colony to possess its own legislature.

Naturally this arrangement, by which their country was honoured with no worthier title than that of a *District* and was subject to a few individuals holding session at a considerable distance, was not expected to satisfy the inhabitants, and it did not. Before submitting to the new order of things the Dutch burghers had particularly desired that Natal should be constituted a separate colony, and from the start the British settlers wished to possess a legislative body consisting of elected members. One step forward was taken in 1847 when Letters Patent[5] were issued providing for a separate legislative body for Natal consisting of three or more members appointed by the Crown and holding office during pleasure. General executive powers were vested in the same body, but the Lieutenant-Governor was instructed to act without the concurrence of his Council whenever he felt convinced that this was necessary.

Necessity for a local legislature.

The establishment of a Legislative Council on the spot came none too soon, for Natal already stood face to face with the great native problem. How could the Zulus be governed? Should they remain under the authority of hereditary chiefs, and if so, was there a sufficient guarantee (1) that the public peace of the country would be preserved, and (2) that they would advance towards the civilisation which Europeans have always regarded as a good in itself? Or should they be brought under the direct rule of the Colonial Government, and if so, (1) what law should be administered, and (2) was the Government prepared to finance the administration, and (3) would not the resultant contact with the very civilisation which it was intended to impart effect the debasement and ultimate ruin of the race? Could the Zulus be put to any use for purposes of labour,

[1] No. 111. [2] No. 132. [3] No. 137. [4] No. 136. [5] No. 112.

defence, or commerce, and if so, what return could be made them as a people for the services rendered? The study of native customs and native law in Natal was essential to the good government of the territory, and the task could be accomplished by the Council at Cape Town only in a very perfunctory and half-hearted manner. A fuller consideration of the various aspects of the native problem must be reserved till the efforts to obtain responsible government are discussed.

Difficulties in the way of granting representative government.

While it was in the interests of the Empire with a view to upholding its dignity and establishing its hold on the new dependency that its officials should stand under its direct control, the inhabitants believed it to be to their interest that they should share that control. Of the European population those of British blood were still the less numerous section, though by immigration they were steadily increasing in proportion to the other settlers, and at the middle of last century any government in London which maintained a paternal rule in any colony inhabited by a large number of British citizens would have to make out before Parliament and country a strong case for keeping up such a position. Besides, while the colonial authorities were negotiating in 1843 with a view to taking over the government of Natal, the Governor had read in the Legislative Council of the Cape a minute which was soon published in Natal and in which it was declared that Her Majesty's Government was anxious to place the Natal institutions upon such a footing, consistent with the maintenance of her royal authority, as might be most acceptable to the bulk of her subjects.[1] Yet the settlement was still in its infancy, the Dutch farmers were disaffected, and it was said that there was not one English inhabitant possessing the united qualifications of character, interest in the country, and education, whom it would be expedient or proper to elect or appoint a member of any Legislative Council,[2] so that a petition which in 1848 asked for a representative form of government met with no success. One of the chief objections to an elective council, viz. the smallness of the number of British settlers, was overcome to some extent during the years 1850 and 1851, when a few thousand immigrants were introduced according to a scheme promoted by a certain Mr. Byrne,[3] —that colossal benefactor of Natal going bankrupt over the operation. The colonists were gaining valuable experience in self-government in their village and district boards, and the Governor recommended compliance with a second petition

[1] *Parl. Papers, Settlement of Natal*, presented 14th Aug. 1850, p. 190.
[2] *Ibid.* p. 7. The petition is given on p. 2 of that work.
[3] *Ibid. Natal*, presented 30th July 1851, pp. 19 ff. and 58 ff.

praying for representative government in 1852. His advice was adopted and Letters Patent establishing the principle of representation in the Council were passed in 1856.

During the period under review some alterations were made in the system of municipal government by extending the powers and duties of the corporations as previously established,[1] while divisional or county councils were created.[2] These, however, were devised on too pretentious a scale for the various districts to support. The arrangements were annulled after three years. As regards the administration of justice an Ordinance of 1849 [3] preserved the power of native chiefs to try according to native law cases arising between members of their tribes, subject to the advice and control of European officials appointed by the Lieutenant-Governor. In all cases appeals were allowed to the Lieutenant-Governor, acting with the advice of the Executive Council. For the benefit of the European population two laws were passed in 1852 to indicate the qualification and duties of jurymen [4] and to introduce the institution of trial by jury in civil cases.[5]

§ 4. Natal, 1856–93.

Up to this time Natal had been largely dependent on the Cape Government, carrying on its correspondence with the Colonial Office through that channel; but the Charter [6] granted in 1856 raised it to the status of a separate Colony. The Legislative Council was reconstituted so as to consist of sixteen members of whom twelve were to be elective and the others, who were high officials, were Crown nominees. In practice these nominated members also constituted the Executive Council, which remained under the direct control of, and responsible to, the Ministers of the Crown in England. The Colony was definitely launched on its way to responsible self-government, the coveted goal which Canada had reached just ten years earlier and to which the Cape Colony and the Australian colonies were also moving. The British Government and the bulk of the people in the United Kingdom had no objection to pushing the system of government established in 1856 to its logical conclusion—that objection was a thing of the past, though of the recent past. It was only sixteen years since Lord Durham had published his memorable report on the government of Canada, in which he advocated the system of responsible government for that Colony, carrying the British political world by storm in a short space of time through the cogency of his arguments and the sound common-

[1] No. 133. [2] Ord. 3, 1854; *P.R.O., C.O.* 180/1.
[3] No. 141. [4] No. 142. [5] No. 143. [6] No. 113.

sense conclusions at which he arrived. But if his reasoning was unassailable it was obviously none the less imperative that in every colony due precautions should be taken to maintain imperial interests.

The demand for responsible government.

In Natal the movement for responsible government came to a head in 1870, when a Bill aiming at the introduction of that system was introduced in the Legislative Council, but was withdrawn without completed legislation. It was not until 1893 that the movement gained success. During the intervening twenty-three years some two or three dozen Bills were introduced, of which about a dozen were passed, and several petitions and addresses were presented aiming at making the executive responsible to the legislature. If then the imperial authorities had no objections to offer to the system, and readily admitted that the arrangement made in 1856 gave no guarantee that imperial policy would be carried out [1]—the Executive Council having at times adopted an independent attitude—and that it was liable to end in a deadlock between the legislature which had to find funds and the executive which had the spending of it; and if the colonists desired the change, what caused the delay? If the answer must be given in a single sentence it must be stated that responsibility would bring with it obligations which a young Colony, situated as Natal was, could not shoulder; but the difficulties that stood in the way related in the main to the defence of the country, to native affairs, to the interests of Indian immigrants, to the relations between the Governor and the Executive Council on various issues, and to the relations to be observed by Natal with regard to the High Commissioner for South Africa, the Cape Colony, and the two Republics.

Defence.

Reviewing each of these points, it was obvious in the first place with regard to defence that Great Britain would certainly follow the procedure adopted in most other colonies of withdrawing the bulk of the imperial troops stationed there, retaining only such garrisons as were imperatively demanded by possible eventualities of imperial defence. When an intimation of this intention was published in Natal it straightway divided the inhabitants into two more or less evenly balanced parties—the one, led by the elected members of the legislature, still agitating for responsible government, and the other fearing the burdens which that institution would entail. The question was only one of supplying the actual man-power for any war that might arise, for even before responsible government was established the Colony was liable to bear at least a large proportion of the

[1] *Parl. Papers*, [C-3174], p. 8.

expense involved.[1] For a long time the Government in London maintained its attitude, and consequently a majority of the colonists opposed a change in the constitution. Under these circumstances no improvement could be effected, for the Secretary of State for the Colonial Department was firm in his demand that so important a step as the appointment of a responsible Ministry should only be taken when a majority of the citizens, being fully aware of the results that would follow, had distinctly expressed themselves in favour of it. Indeed it was only when native pressure on the northern frontier had been weakened by a native war with the South African Republic, when the Cape Colony made itself responsible for the government of the territory on the south-western frontier, and when the Government in London promised to assist with the defence for a while longer, that a majority of the electors could be persuaded to accept responsibility. Really the matter was not quite so simple as it looked. More was involved than the mere question whether the Colony could enrol, equip, and pay the necessary number of troops for repelling a native attack. Native policy was initiated and directed by the imperial authorities. The question before the colonists was whether they should support blindly a policy over which they would have very little practical control, and which, they stated, had already led to complications. But this leads to a consideration of the second of the list of difficulties which faced the framers of the new constitution, the one which permeated nearly all the others, and made it impossible to do for Natal what was done for so many other colonies possessing representative government, viz. establish responsible government by merely amending a clause or two of their constitution Acts or altering a few words in the instructions of their governors.

The native problem.

In 1880 when demands for an improvement of the constitution became peculiarly insistent the white population of Natal consisted of about 30,000 souls, of whom less than 7000 were electors. The number of Kaffirs was estimated at not less than 400,000. It was out of the question to grant the franchise to those masses of coloured people unless a legislature of uncivilised persons were to be set up with perhaps three or four members to represent European interests. But the natives had been living under their own laws, which had lately been codified[2] and which were administered by special officers responsible to the Governor. In the event of responsible government being set up it was feared that native rights would be disregarded or exploited for the benefit of the white population, unless some

[1] [C-3280], p. 16 ff. [2] No. 141.

means could be devised for first securing those rights; for if the unfettered direction of native affairs were placed in the hands of responsible Ministers representing the views of the majority in the legislature, the result might be that the taxpayer in the United Kingdom would have to bear the cost and responsibility of providing for a policy over which he had no control. On behalf of the colonists it was claimed that they more than any other people were likely to strive after the maintenance of a good understanding between whites and blacks, for to them a Kaffir war meant the spreading of distress and confusion, peril to life and property, and the arrest of progress.[1] They went so far as to say that the control of native policy which the Government in London exercised had not improved the coloured races. "It is a fact beyond dispute," they declared in 1888, "that the moral condition of the Native population, after forty years of British rule, is worse than it has ever been."[2]

At first the representative members in the Legislative Council did not claim a complete measure of control over the natives in the event of self-government being granted, but were content that all measures relating to native affairs should be referred to the Government in London for consideration and approval.[3] This attitude, however, was probably of the nature of an offer in return for continued protection; at any rate, it did not satisfy the constituencies. Seven years later, in 1888, the Council took some pains to remove the prevailing impression that, were responsible government established, the control of native affairs would practically remain in the hands of the Crown, observing that it was the essence of responsible government that the local administration should possess full control over all classes of the population.[4] But now the Council took the wind out of the Imperial Government's sails by advocating as strenuously as the latter had ever done some form of representation of native opinion and native interests. Certainly the prolonged discussion of the subject had been stirring the white community to a readjustment of their early views. All this was to the good of the settlement, but the home Government insisted on some positive constitutional guarantee being afforded for the maintenance of native interests. The Council was not irresponsive. They suggested a legislature of two chambers. The seats in the upper chamber might be filled by nominees, and this House alone could be given the power to initiate legislation intended to deal with the Kaffir population.[5] The Secretary of State, however, did not consider this expedient would contain any security that

[1] *Parl. Papers* [C-3174], p. 4.
[2] [C-6487], p. 9.
[3] [C-3174], p. 10.
[4] [C-6487], p. 8.
[5] *Ibid.* p. 15.

adequate laws would be passed or sufficient money voted for the benefit of the natives,[1] particularly as the second chamber would have the initiation of money Bills. Being asked to offer a solution he suggested that all Bills exacting compulsory service of natives or restricting their freedom in any way or altering their old laws or increasing the taxes paid by them should be reserved by the Governor. He also thought a Native Protection Board independent of the legislature might be established and a sum of money should be reserved under the absolute management of the Governor to be spent annually for the education and general advancement of the natives.[2] This was written in August 1889. The Colony now only too gladly reverted to the idea of a unicameral legislature, but again the Secretary of State objected. Responsible government with only one House was an unknown thing in the Empire, and it was very desirable to have an upper chamber which would be expected to guard against hasty and ill-considered legislation for the non-European population. In 1892 the British Government demanded the erection of an upper chamber as an indispensable condition to the granting of responsible government.[3]

The third difficulty that had to be met arose from the presence in the Colony of a large body of natives of India. *The Indian population.* Owing to the unreliable nature of the Kaffir as an agricultural labourer a commencement was made in the fifties with the introduction of coolies at the public expense. Within a few years several thousands arrived, and contrary to the expectation of the promoters of the scheme, they were not anxious to leave the country when their periods of indenture expired. In 1881 they numbered 25,000, thus nearly equalling the European population. As yet there were among them only some eight or nine dozen registered electors, but large numbers of names were being pushed forward for registration. There was considerable uncertainty as to the position of this class of men under the Charter, so three Bills were introduced into the Legislative Council in 1880 aiming at limiting the Indian franchise by demanding an education test for electors. In the same year a select committee of the Council dealt very summarily with this question by simply recommending the exclusion of the Indian population from the franchise.[4] It was feared that in course of time the Indian vote might swamp the European vote. Another objection was that if the Indians, who belonged to another country and were only brought into the Colony as labourers, could by residence and by a property qualification obtain the franchise,

[1] [C-6487], p. 22.
[2] *Ibid.* p. 24. Cf. p. 74.
[3] [C-7013], p. 19.
[4] [C-3796], p. 6.

then grave dissatisfaction would be felt by the Zulus of Natal, who after all belonged to the country, assisted in police and military duties, and contributed a large proportion of the revenue. Yet the Indians were on the whole considerably further advanced than the Kaffirs in the scale of civilisation, they were not living under a separate code of law of their own, they were contributing a good deal to the agricultural progress of the Colony, and it was displeasing to the imperial authorities that any of the sons of the Empire should be placed under disabilities. But as a Bill was passed and sanctioned in 1883 [1] providing for the enfranchisement of unindentured Indians possessing the necessary property or residence qualifications if they could write out an application for registration in English or Dutch and sign their names in European characters, the Indian franchise was not a serious ground of difference between the Colony and the Government in London during the later efforts that were made to procure responsible government.

Relations between the Governor and the Executive.

The next point to be settled touched the relations that were to subsist between the Governor and the Executive Council. Under the 1856 Charter, and by Royal Commissions and Instructions issued since that date, the Governor was commanded to consult the Executive Council on practically every question on which a decision was to be taken, but he could act against the advice of a majority of the members. He alone was entitled to submit questions to the Council, but any member had the right to request him to submit any matter. He could either decline or accede to such a request. In practice the custom grew up, however, for the Governor to lay before the Council only the more important questions connected with the administration of the government of the Colony and such questions as the law demanded should be dealt with by the Governor in Council. The view of the successive Governors very probably was that they were responsible to the British Government, and that the Council was not so responsible. This view was confirmed by the Secretary of State in 1883 [2] when he was called upon to settle a difference between the Governor and a section of the Council. So far there was little real trouble, but in the negotiations over the relation between Governor and Executive in the event of self-government being conceded, there arose the ever-recurring native question. From the early years of British rule in Natal the Lieutenant-Governor had occupied the position and held the title of Supreme Chief of the native tribes.[3] His authority

[1] No. 124.
[2] [C-3796], p. 86.
[3] *Vide* Preamble to Ord. 3–1849 (No. 141).

was absolute in all matters political, while in the administration of justice he acted through appointed deputies. Later on his authority was formally recognised by statutory enactments.[1] The point is that this authority was most of the time exercised by the Governor on his own personal views. The standpoint taken up by the colonists was that if they were to receive responsible government this procedure should be altered by the home Government, which ought to instruct the Governor to act on the advice of his Ministers in native affairs as in all other matters; but this the imperial authorities would not concede. The powers of the Supreme Chief were to be left in the hands of the Governor apart from his Council, except in the few particulars which, by the Code of Native Law, were vested in the Governor in Council.[2] This was a serious limitation of what is generally understood by responsible government, for it affected the Colony in nearly all its most vital interests, and towards the end of the agitation under review the scheme was nearly wrecked on this issue. Yet the Secretary of State remained firm on this point, though he modified his early views to the extent of promising that the colonial Ministers would be made acquainted with any action which the Governor might propose to take with regard to the natives. Mutual goodwill and co-operation could go a long way towards saving any situation that might arise, and he had little doubt that in every, or nearly every, case the Governor would be able to arrange satisfactorily with his Ministers as to any course to be adopted, although in the last resort the decision would rest with him.

Apart from his functions as Supreme Chief, though partly covered by those functions, were other duties of the Governor having reference to the native problem. Up to 1882 all British territories in South Africa were governed by the High Commissioner, who was also the Governor of the Cape Colony. In that year, however, the Governor of Natal was appointed a Special Commissioner for Zulu Affairs to conduct relations with the native tribes of Zululand.[3] It was a recognition that the future of Zululand would be intimately connected with that of Natal. The terms of the commission are instructive: "We do hereby authorise and empower you in Our name and on Our behalf to take all such measures, and to do all such things in relation to the Native Tribes of Zululand as are lawful and appear to you to be advisable for maintaining our Colony of Natal in peace and safety, and for promoting the peace, order, and good government of the tribes aforesaid, and for preserving friendly relations with them. . . ." The

[1] Nos. 146 and 149 (Annexure).
[2] [C-7013], p. 41.
[3] The commission is given in [C-3174], p. 20.

natives in Natal and those in Zululand were closely akin, and any matter affecting one group would also influence the other. But if responsible government were introduced in Natal the British Parliament would object to the speedy annexation of Zululand. An Aborgines Protection Society in London was keeping its eye on native conditions in South Africa,[1] and the feeling was abroad in Great Britain that the Zulus were being harshly treated. Yet if complications arose in Zululand it was the colonists of Natal who would suffer, and no less an official than the Attorney-General of the Colony gave it as his considered opinion in 1891 that the results would be mischievous if the government of the two countries were placed into different hands. This was not what the Secretary of State desired. On the contrary, keeping the direction of native affairs in Natal under the management of the Governor, he was perfectly logical in insisting that the same control should be extended over Zululand.

The position of Natal in South Africa.

The last point that needed clearer definition was the relation of the Colony to the other countries in South Africa. This necessity arose from an incident that occurred in 1882. The Natal Legislature being anxious to open railway communication with the Orange Free State and the Transvaal in order to give the Colony the benefit of the transport of goods to those countries, requested the High Commissioner for South Africa to arrange a conference of delegates of the three countries. The High Commissioner considered it his duty to inform the Government of the Cape Colony of the scheme, and Natal took exception to this, stating that its request had been directed to the High Commissioner as such and not to the Governor of the Cape Colony.[2] Next year the President of the Orange Free State opened the question of fixing certain points in the boundary between his State and Natal, addressing his communication, not to the High Commissioner, but to the Governor of Natal, who received it and dealt with it in the Executive Council.[3] This was probably unconstitutional, and it was not the first time that Natal communicated directly with outside territories. On being requested to explain what would be the relations of Natal with the Cape Colony and the Republics in the event of self-government being introduced, the Secretary of State gave an evasive reply. No doubt he felt that the question would settle itself in course of time through experience far better than if he were to lay down fixed rules of procedure. The Ministers of the two Colonies, he thought, might correspond on matters not requiring the intervention of the Governors.[4] Relations with the Republics would be conducted through

[1] [C–3796], p. 64. [2] *Ibid.* p. 41. [3] *Ibid.* p. 80. [4] [C–6487], p. 22.

a High Commissioner, and the Governor of Natal might not improbably be appointed a High Commissioner for this purpose. On the point of established constitutional theory, however, he was emphatic. The granting of responsible government would not give the Colony power to make treaties or enter into alliances with outside States.[1]

Such were the views of the Colonial Office and of Natal. On several points they had at first been diametrically opposed, but South Africa is the land of *viæ mediæ*. Both parties shifted their ground to a greater or less extent on various points of difference, and even a cursory perusal of the instruments which established responsible government in 1893 [2] will show that the programme of neither party was fully carried out in the end. After all, many of the minor differences had arisen from the inexperience of the colonists, and it was repeatedly necessary for the Secretary of State to point to constitutional law and practice in Canada, in the Cape Colony, and in Australia. But the people were quick to learn, and by winning the confidence of the imperial authorities in their ability and moderation succeeded in gaining some benefits at first denied them

§ 5. Natal, 1893–1910.

For seventeen years Natal existed as a full-fledged Colony possessing responsible government. By responsible government in the British Empire is generally meant that the Executive Council, consisting of Ministers, advises the Governor, and that in performing executive duties he acts on such advice. And the Ministers, being appointed by the Governor from the one of two or more parties which commands the confidence of the enfranchised inhabitants, are supposed to be responsible to the Legislature for the advice they give. The elected members of the Legislature are obviously responsible to their electors for carrying out certain broad but definite principles which the majority favours.

Responsible government.

In England it has been said in quite recent years, and truly said, that the Crown has no option, but must, in accordance with established constitutional usage, act according to the wishes of the Cabinet. "The advice of the Ministers is the act of the Crown." In works on colonial constitutions a good deal is always said about the advice of Ministers given to their Governors, but nothing about the Governor's advice to his Ministers; yet in matters of imperial interest—if in no others—such advice is given, and it is generally effective. In such matters a wide discretion is left to the Governor. Whilst he is expressly

Limitations to colonial self-government.

[1] [C-7013], p. 38. [2] Nos. 126–128.

enjoined by Royal Instructions to guide himself by the advice of his Executive Council, a discretion is generally given him in those instructions to act in opposition to the opinion of the Council whenever he sees sufficient cause to dissent from that opinion. One reason for allowing a Governor some latitude is that it is necessary to fulfil British international obligations. Besides, the Governor has by his office the supreme command of the imperial troops stationed in his colony, and no movement of those troops can take place for any purpose whatever without the sanction and authority of the Governor acting on his unfettered personal responsibility. Such was the position in 1893 in all self-governing colonies. In Natal the presence of a large native and Indian population was regarded as affording a special and additional reason why the Governor should not be too firmly tied down. And as regards Natal the royal veto was apt to be exercised where in other colonies a compromise would be negotiated.

But whilst a degree of freedom was theoretically reserved to the Governor for cases of emergency, it was actually the policy of the white population that was eventually carried out. In 1896 a law was passed which in effect placed in the hands of the Ministers the power to grant or withhold the franchise in the case of the Indian residents,[1] and the next year, when Zululand was annexed to the Colony, it was laid down that the Governor in Council could legislate by proclamation for that territory[2] during a period of eighteen months, after which the province would pass under the legislative control of the Parliament of Natal. This was a complete departure from the position taken up by the Secretary of State for the Colonies a few years earlier. After the Anglo-Boer War a further accession of territory came to the Colony by the addition of a strip of Transvaal territory, and Natal was then ready to join hands with the other self-governing colonies of South Africa.

Growing influence of the colonists.

SECTION V.

THE ORANGE FREE STATE, 1836–1910.

The narrative relating to the course of events in the territory which afterwards became the Orange Free State must be connected with the history of Natal and of the Cape Colony; for all the emigrants came from the Cape Colony, while some of them settled for a time in Natal. There were three main movements, at different periods, through which the trans-Orange territory became

Three main streams of immigration.

[1] No. 120. [2] No. 130.

populated by white men. First, there were people who without discarding British authority moved across the river from the north-eastern parts of the Cape Colony in search of eligible pasturage during certain seasons of the year. Many of them began to settle down beyond the river long before the Great Trek commenced. It is important to note that this first group settled not only in what is now Orange Free State territory, but also to the westward, in what afterwards became Griqualand West. The second movement took place in 1836 and subsequent years as part of the Great Trek. Keeping to the westward of the great Drakensberg range, some emigrants spread themselves out in the Orange River territory in the vicinity of what is now Winburg. Others kept on moving till they had crossed the Vaal River and its tributaries, and their doings will therefore be described in the section dealing with the South African Republic. Others again crossed the mountains into Natal. These have already been discussed in the portion of this Introduction relating to Natal. The third movement came from Natal, which supplied settlers to the Orange River territory during the years 1843 to 1845, when British authority was being established at Durban and Pietermaritzburg.

Conditions before the establishment of British rule.

Up to this time there was a Volksraad at Pietermaritzburg and an Adjunct Raad at Potchefstroom. Subject to Potchefstroom were not only the settlers to the north of the Vaal, but also, though in a somewhat vague and unsettled manner, most of those who had established themselves in the trans-Orange country. When the Volksraad at Pietermaritzburg was abolished the lesser body continued to claim authority over the emigrants who had not passed under British rule, and it arranged disputes with various tribes to the south of the Vaal River. Now there was a movement farther northward and eastward arising from two causes: (1) Large native states were created on the eastern frontiers of the Cape by the British authorities,[1] who desired to remove the possibility that an emigrant state should arise; and (2) the Natal seaport was lost to the emigrants through its occupation by the British. The movement was away from British control through native chiefs and towards the Portuguese port of Lorenzo Marques. This was in the later months of 1844 and during the year 1845. The most independent of the farmers were thus removed beyond the Vaal, and the establishment of a British Resident with a magistrate's authority supported by a small body of troops to the south of that river was easily accomplished. The Resident selected in 1846 for his headquarters a spot in the centre of

[1] *Parl. Papers, S. Africa, C.O.* 42, pp. 57–61. Cf. Theal., *Hist. of S.A.* 1795–1872 II. 481 ff., and Documents Nos. 153 and 154 below.

the country which was bordered by the Orange and the Vaal. There the town of Bloemfontein arose. A little to the northward was the town of Winburg, where a landdrost and heemraden were established administering justice and performing administrative functions under the auspices of the Raad at Potchefstroom. That the Raad to the north of the Vaal had jurisdiction over the trans-Orange settlers explains how it came about that in the next few years Transvaalers offered to intervene in disputes between their compatriots south of the Vaal and the British or the natives. From the moment when the emigrants left the Cape Colony the authorities had intended to extend their sway over whatever territory might be occupied. It was easy to accomplish the object after 1845. Some time was spent in attempting to reach an agreement with the Griquas, who had been made an independent people, and with the Basutos, who also claimed territory to the north of the upper reaches of the Orange. When this was effected, a proclamation was issued in 1848 annexing to the Queen's dominions the territory lying between the Orange and the Vaal west of the Drakensbergen.[1]

Who was to legislate for the new Colony?

The question arose, by what title did the Crown hold authority over the new Colony? The Attorney-General of the Cape took the view that the Orange River Sovereignty, as it came to be called, was "a colony by occupancy." This the High Commissioner regarded as unsatisfactory, for it meant that the Parliament of Great Britain would have to legislate for the district. Could the matter be brought before a court of law it would have constituted one of those delicate series of new combinations of circumstances with which the history of South Africa teemed during the last century. A colony planted by another colony, *i.e.* by practically unopposed settlement,—is it to be subject to the legislature of the mother colony or to that of the home country? And if the newly planted colony has formally declared its independence, what are its relations towards those two? The facts, however, were plain enough. The greater part of the territory had been conquered from a group of people who had previously performed all the functions of an independent state, but who had never been recognised as independent by the British Government. But the High Commissioner did not base his title on conquest or settlement. He stated that before the immigration of British subjects into the country north of the Orange River had commenced, "that country must be held to have belonged to the native chiefs"—which was not the case as regards the bulk of the territory concerned. He

[1] No. 155.

further affirmed that just prior to his proclamation annexing the country he had conferred with all the native chiefs, and that they had agreed to cede the sovereignty of the country to him as the representative of the Crown.[1] The country therefore was held by cession, and the High Commissioner could legislate on behalf of the Crown. It must be noted, however, that the constitutional theory involved was not very strictly observed in South Africa. Or at any rate when the facts of a case were inconvenient they were made to conform to the theory; but that was a matter that concerned the Crown and the British Parliament, and Parliament was content.

Constitution under the British Crown.

Preliminary arrangements for the government of the Sovereignty were published a few weeks after the annexation,[2] but in the next year these were superseded by a proclamation of the High Commissioner which gave the new Colony a constitution.[3] The government was carried on by the High Commissioner and a Council of five official and eight non-official nominees. The highest of the officials, the British Resident, acted for the High Commissioner in most matters and was the president of the Council. For the administration of justice in the districts the Cape magisterial system was followed, and the employment of the Roman-Dutch Law was confirmed, except as referring to natives, who retained their own laws and customs within certain territories allotted to them. Serious criminal cases involving European residents were tried by a court of three or four magistrates. The most serious offences had to be tried by judges of the Cape Colony. The constitution was very similar to the one existing at the Cape. One of the chief reasons why the people had left the old Colony had been the absence of a satisfactory system of representative government. Since the date of their departure they had begun to enjoy the freedom for which they longed, so that it was inevitable that they should be discontented when the system from which they had fled was reimposed.

Reasons for the abandonment of the sovereignty.

In 1854 the Sovereignty was abandoned by Great Britain. Even, to-day the reasons for this withdrawal are not quite plain. Probably many motives were at work. Britain was drifting into war with Russia to support Turkey and defend her Asiatic possessions. And as her standing army is always small, she has generally found it necessary to order her troops from various parts of the globe to proceed to the scene of conflict whenever a serious war broke out. At the time of the withdrawal there were serious troubles with the natives within

[1] *Parl. Papers, O.R. Sovereignty*, 19th May 1851, p. 73.
[2] No. 156. [3] No. 157.

the Sovereignty. British arms had met with reverses and British prestige had not been vindicated. The imperial authorities were unwilling to incur heavy expense in South Africa, and unable to supply at short notice a large body of troops. They probably preferred, too, to regain the goodwill of the natives. At any rate, in the face of more pressing affairs in Europe the question of the Orange River Territory could easily stand over for future settlement, particularly as the country was still undeveloped and the tracts that had fallen under direct British rule seemed to be of no great value. Besides, a strong party in the Sovereignty was opposed to British rule, and they had the sympathy of the settlers in the Transvaal. Here, too, trouble might arise at any moment. Possibly one of the strongest reasons for withdrawing was a desire to conciliate public opinion in the Cape Colony. Very many of the Cape burghers strongly disliked the assumption of sovereignty beyond the Orange. Some who had no objections to the step on national and sentimental grounds were averse because the Cape was being made to pay much of the expense involved in governing the Orange River Sovereignty. Such views were expressed in the Cape Legislative Council with warmth and occasionally with bitterness. It was politic to meet Cape views while a serious war was being waged in Europe; for after all the Cape Colony was throughout the century the basis of British authority in South Africa, and more apparent vagaries in British policy in South Africa than most people realise were due to a wish on the part of the imperial authorities to defer to Cape opinion. Whatever might happen in other territories, it was of vital importance that the old Colony should not be alienated. By so much as the Government in London failed to carry the Cape Colony with it in the steps it took, by so much would imperial interests be jeopardised. Indeed, looking at the Empire as a whole, imperial policy must not be criticised only by referring to the wishes of the home Government, but by calculating the influence on it and on its governors and commissioners of the various outlying parts.

Constitution of the Free State.

The Bloemfontein Convention of 1854 gave complete independence to the people residing between the Orange and the Vaal. They were no longer connected with the State across the Vaal which had been recognised two years earlier. Indeed, in 1852, while the Transvaal people won a recognition of their independence it had been made quite clear that they were not to interfere to the south of the Vaal, and many of the trans-Orange inhabitants had felt that they were being left in the lurch. Therefore there was now no intention to join the northern State, and

when such a suggestion was afterwards made the High Commissioner set his face hard against the project. Consequently a new State arose, taking the name of the Orange Free State, thus realising the people's ambition expressed in 1837 "to establish our settlement on the same principles of liberty as those adopted by the United States of America, carrying into effect, as far as practicable, our burgher laws."[1] There was to be a Republic then, and legislation was to be modelled after the old Cape Laws. One legislative chamber called the Volksraad was created, consisting of elected members, and a President was chosen.[2] The Executive consisted of two Government officials and three ordinary members elected by the Volksraad. It held monthly meetings, at which the President of the Republic was the chairman, and measures were decided upon by a majority of votes. Field-cornets and field-commandants were elected by the burghers. The constitution was drawn up and adopted in 1854, and before the end of the year laws were passed to establish Dutch as the official language,[3] and to define the duties of field-cornets.[4] The other salient features of the Free State constitution are given so fully below that it is not necessary to say more on the subject. It may be pointed out, however, that in its local government and its higher courts of justice it copied the Cape systems rather closely. The district courts of justice indicated an extension of the old Dutch system that had existed at the Cape, and the elective principle was introduced here as elsewhere. Trial by jury was established. The close connection and almost daily intercourse of the people of the Free State with those of the Cape Colony had the inevitable result that many of the institutions which worked well in the one would be introduced into the other. Besides, during the years when British authority extended over the territory Cape institutions had already been established, and the changes made in those were mainly intended to popularise them. The central government, of course, was something quite different.

Government of the natives.

Some documents are given to illustrate the manner in which subject native tribes were governed. As in Natal, the franchise was not given them, but they generally retained their own laws and customs administered by their own chiefs under the guidance of a European official. Yet, native chiefs and their councils were often apt to inflict punishment on their followers which was in the eyes of Europeans out of proportion with the offence committed. For this reason all criminal cases were removed from their jurisdiction—so it would seem, though the laws are not quite

[1] Quoted by Theal, *Hist. of S.A. 1795–1872*, ii. 316.
[2] No. 159. [3] No. 160. [4] No. 161.

plain on the point—and they were not permitted to inflict corporal punishments. The criminal laws of the State were made to apply to the natives to their immense advantage and to the exclusion of any chance of undue favouritism or hasty revenge on the part of the chiefs. Two other principles were established: In the first place, native tribes were made subject to the legislative and administrative authority of the President and the Executive Council, being thus removed from the control of the popular assembly by the desire of that body itself. It will have been noticed that a similar arrangement existed in Natal, at least till the introduction of responsible government. Secondly, the idea of segregation was affirmed. In the reserves set aside for subject tribes no Europeans were allowed to reside without the consent of the Executive Council. In practice this came to mean that a missionary, a few traders, and a few Government officials were the only white men who went to live in those reserves. It is not a final solution of the native problem, nor can it be adopted everywhere, but personal observation has shown that in such a district the natives have not deteriorated, as they have undoubtedly done wherever they reside among Europeans, but have become industrious, sober, and contented, while they are gradually being civilised and Christianised. As there has been no familiarity between whites and blacks, the Kaffir still respects the European and the civilisation for which he stands.

Stability of the constitution.

The Orange Free State had a fairly smooth career, though in its infancy it had a severe struggle with the Basutos, who when conquered passed under British rule. Considering the amount of trouble the Cape had with those people and the loss of money and dignity it suffered at their hands, it was perhaps well that they did not fall to the guidance and management of the little State. Though it lost to Great Britain a diamond-laden tract of territory,[1] it never went to war with its great neighbour. Its own diamond mines at Jagersfontein did not attract a large and difficult alien population as did Griqualand West and the Witwatersrand. No industries arose. The farming community was spared the disadvantages of the commercial and materialistic spirit which degraded politics and retarded education elsewhere. Its idealism remained unimpaired, and it will be strange if it does not turn out to be the bearer of ideas to the other communities in the present century. The smoothness of its career was reflected in the stability of its constitution. Its laws were as terse and finished as could be expected, nearly as complete and polished as could be desired. The tiny annual publications show that as regards its constitution it

[1] No. 171.

pursued the even tenor of its way till the end and hardly found any modifications necessary.

Casting in its lot with the northern Republic in the war of 1899 to 1902 the Free State was annexed by Great Britain on the 24th May 1900, under the name of the Orange River Colony.[1] The officers who remained in the field subscribed to the Vereeniging Peace Treaty two years later.[2] Military rule came to an end by virtue of Royal Letters Patent dated 2nd August 1901, which provided for the government of the Colony by a Governor and by nominated Executive and Legislative Councils. These came into operation on 23rd June 1902. The period of Crown Colony Government ended with the publication of Letters Patent dated 5th June 1907, which set up the system known as responsible government.[3] There were a Legislative Council and a Legislative Assembly for which provisions similar to those passed for the Transvaal were enacted.

The country becomes a British Colony. Its constitution.

SECTION VI.

THE SOUTH AFRICAN REPUBLIC, 1836–1910.

It has been pointed out that the great constitutional lesson which the Dutch burghers had to learn during the second quarter of the nineteenth century was to direct their efforts towards securing the control of the central government, and that thereby they could acquire the local liberties after which they hankered. Centralisation *versus* localism, the Colony against the District, the State against the Individual—that was the issue at the Cape. Before the farmers could learn the lesson fully several thousands of them left the country, carrying with them the ideals which had become a part of their life. Many of those who departed had not possessed the patience to learn, and many did not consider the lesson worth acquiring, for it would be useless and untruthful to say that national antipathies did not act as an incentive towards the exodus of the thirties. But surely when the emigrants arrived to the north of the Vaal national rivalries had ceased for the time being. What remained was the sense of personal dignity and importance.

Local and personal motives.

For a few years this lay in the background. In the face of threatening dangers the community united to clear for itself habitable regions where marauding natives should not trespass. When they believed this to have been accomplished, and after they obtained a recognition of their independence,[4] the different localities that

The rise of three republics.

[1] No. 172. [2] No. 173. [3] [Cd. 3526.] [4] No. 177.

had been settled by various parties at different times drew away from each other, with the result that five years elapsed before a satisfactory constitution could be established. And even while that instrument was being adopted by a section of the community there were no fewer than three republics to the north of the Vaal. In 1858, however, two of these, Zoutpansberg and the South African Republic—the latter name had been adopted in 1853 [1]—joined hands, while Lijdenburg maintained its independent position for two years more, and was eventually brought into the fold by an agreement [2] which contained a series of compromises admirably illustrating how impossible it was to overcome the feelings of local and personal independence.

The constitution which was finally accepted by all the burghers of the Transvaal territory was a lengthy document.[3]

The constitution adopted.

With the Grondwet of the Orange Free State and the demands for constitutional liberties made by the people of the Cape and Natal it forms a series for the study of the political theories of the Boers of South Africa. Naturally they drew up the provisions with their experiences of earlier years very vividly before them. What they had disliked in the Cape Colony they discarded, what they thought had suited their needs they retained—whether it was something quite old or something very novel to their experience did not matter. The whole document becomes one of the most interesting instruments ever published in South Africa if it be read with this obvious fact in mind. There was, *e.g.*, the insistence that a member of the Volksraad should not be a Government official—a protest against the position that had existed at the Cape since 1652. The executive was to be responsible to the legislature. Treaties and alliances were not to be made without the consent of the legislature. The State was to assist in maintaining the Church. Courts of landdrosts and of landdrosts and heemraden were erected to administer justice, these officials being selected in the case of the chief magistrates by the Executive Council, but subject to the approval of the people, and in the case of the heemraden by the outgoing heemraden, but again subject to approval by popular consent. A High Court of Justice consisting of three landdrosts was appointed to go on circuit. This, and the adoption of a jury system, were two expedients copied from institutions established at the Cape under British rule. As in the case of the Free State, the natives were totally excluded from the franchise, and military officers were elected by the burghers.

[1] Nos. 179 and 180.
[2] No. 188.
[3] No. 182.

But the most significant feature about the constitution is the reiteration of the theory that the people were the source of all authority. The people will have no equality between blacks and whites. The people will have no slavery. The people entrusts the task of legislating to the Volksraad, the government to the Executive Council, defence to the army, the administration of justice to landdrosts and jurors. When a law is passed, it cannot as a rule be enforced until the people has signified its assent. When a person is arrested for crime this is done in the name of the people. Judgments are pronounced in the name of the people, and when proclamations are issued, they end with the words: God save Land and People.

The people the source of authority.

Another feature of the constitution was its peculiar flexibility. Being the fountain of all authority the people did not bind themselves down to any rigid measures. It was well for them that they did not, for they would gain in time by education and experience. Some of the clauses could be interpreted in more ways than one, while situations could quite easily be imagined that were not covered by the provisions, and very often no adequate arrangement was made for carrying out the rules laid down [1] or for punishing any breach of those rules. As a result the custom grew up of modifying the provisions in any respect deemed necessary by a resolution of the Volksraad passed by a majority of votes taken at an ordinary session of that body.

Flexibility of the constitution.

A third point of note was the absolute supremacy of the legislature in the constitution. This was laid down in express terms in 1859. Every Court was to observe all the resolutions of the Volksraad as law, and no Court was to express an opinion as to the validity of any law.[2] The law was as explicit as it could be, and the Courts observed it for some thirty-seven years. Then an attempt was suddenly made by the High Court to set it aside and establish new precedents.[3] The effort failed, and the incident, though it aroused a good deal of discussion and some political agitation outside the Republic, mainly served to bring to light the sound common-sense arrangement of the constitution. The same arrangement is one of the characteristic features of the British constitution, for an English court never thinks of declaring a law passed by the Imperial Parliament opposed to the constitution. The absence of a similar provision in the United States constitution has in past years led to much trouble.

Supremacy of the Volksraad.

[1] See, *e.g.*, No. 225.
[2] No. 185.
[3] See No. 231.

As the chosen man of the people the President was in a very strong position. He became the leading figure in the executive as well as in the legislature though he did not select his executive, had no veto on legislation, and could not dissolve the Volksraad. His patronage to office, too, was subject to the approval of the legislative body. The President's influence was due to the stress and danger to which the country was always exposed. The fact that the holders of the office nearly without exception embodied the passionate love of independence which throbbed through the people and consistently acted up to it, explains the confidence they placed in him and the large powers they delegated to him.

The President.

The government of the country being entirely under the influence of the burghers, the subject of local government was not given so much attention as had previously been bestowed on it. The Field-cornets became elective officials [1] instructed to maintain the peace in the several wards of each district, to register the names of electors, to hold inquests, to regulate the conduct of natives in their vicinity and to perform important military duties in time of war. In 1870 Justices of the Peace were appointed for the better maintenance of the laws.[2] They were to be of two classes, corresponding pretty closely to the Justices who assisted in the government of England during the first and the second half of the fourteenth century. The one class was empowered to take evidence on oath, to make arrests on such evidence, and to conduct preliminary examinations. They had to hand over prisoners to the public prosecutor of their district to be tried by the courts of law. They could further bind over persons to keep the peace. The second class consisted of men who, with the title of Resident Justices of the Peace, were stationed in the smaller towns where there were no landdrosts. These could hear and determine minor civil and criminal cases. All these officials were an exception to the elective principle, for they were appointed by the President of the Republic; but, as was the case with other officials, they had to take an oath to be faithful to the people of the Republic. District Councils [3] and boards of town management arose in course of time.

Local government. *Justices of the Peace.*

The division of the Republic into districts and field-cornetcies had been accomplished with a view to purposes of defence. These subdivisions were managed for some time by the Executive Council with the assistance of landdrosts, field-cornets, market-masters, and pound-masters. Minute provisions were made in 1876 for men going on military service.[4]

[1] No. 183. [2] No. 189. [3] No. 202. [4] No. 194.

The President could call out a commando to defend the country or quell internal risings, but unless the danger was imminent he was required to summon the Executive Council and take its advice. Most probably he was to decide in each case whether the danger admitted of delay, but in any case he had afterwards to justify his action to the Volksraad. All male inhabitants, a few classes excepted, were liable to serve if they were between the ages of sixteen and sixty.

Such in very broad outlines was the constitution when in 1877 the Republic was annexed to the British Empire.[1] The annexation period was not marked by any constitutional changes of permanent importance. The government was a despotism; but in 1881, when the inhabitants rebelled after futile missions to England and petitions for the restoration of independence, the Government in London permitted the State to be re-established, though under British suzerainty.[2] For three years the people chafed under the control which such suzerainty implied, till it was virtually withdrawn as a result of friendly negotiation, while the right was reserved for the British Crown to control the treaty-making power of the Transvaal.[3]

The annexation of 1877.

In 1885 gold reefs of great richness were discovered in the territory which up to that time had been devoted only to pastoral and agricultural pursuits. The Dutch burghers were not the class of people who could readily turn their hands to gold-mining, so that the work fell to strangers, many thousands of whom streamed into the country. The industry grew with almost miraculous rapidity. It brought much wealth to the country and to the miners. The revenue went up by leaps and bounds. But it also brought a new factor into Transvaal politics. The immigrants began to agitate for political liberties. At first the country turned a deaf ear. When the Government was requested by its friends in the Cape Colony to arrange for the representation of the newcomers in the Volksraad it replied that the districts where the mines had arisen all had their members. This was really evading the question, for those representatives were being chosen by the old inhabitants, while the immigrants did not possess the franchise. Round the franchise question then the agitation centred.

Discovery of gold and influx of strangers.

When the constitution was adopted in 1858 the white population was practically homogeneous, and as all the people had taken an equal share in opening up the country all male white inhabitants over twenty-one years of age could vote at all elections. Thereafter all such persons born in the Republic became enfranchised in the ordinary course

The franchise.

[1] Nos. 196 to 199. [2] Nos. 200 and 201. [3] No. 204.

of events on becoming of age. Immigrants became burghers after one year's residence. The latest Act that laid down this rule was the Franchise Law of 1876.[1] Such immigrants were further to be possessors of immovable property—no particular amount was demanded—and they had to take an oath to be true to the people and the Government of the Republic, to obey its laws and to maintain its independence. This arrangement was not regarded as unsatisfactory, as there were as yet few people to complain; but now the annexation came, and the direct result of this step was that in 1882 the franchise was limited to those who had resided for five years.[2] Such was the position when gold was discovered and the city of Johannesburg began to shoot up on the Witwatersrand, a little distance to the south of Pretoria.

The concessions of 1887.

A small concession was made to the mining industry in 1887 when it was laid down that public diggings could be erected into separate electoral divisions, thus removing the chance of swamping the mining vote by the votes of farmers in the surrounding wards. But this was only patchwork, as the miners and their employers could only vote if and when they had been registered as residents for five years.[3] It is obvious that the founders of the Republic were afraid that if the rapidly increasing number of immigrants were given the franchise they would soon be able to subvert the existing republican form of government and pass measures oppressive of the farming community, the Dutch language, etc. They were very probably mistaken. But the real fear was that the immigrants in the Republic would eventually unite with an outside power to deprive the country of its independence.

Concessions of 1890. The new constitution.

A further step in the direction desired was taken, however, in 1890. This was the greatest change that the Grondwet underwent while the Transvaal preserved its existence as a Republic. Two laws were passed which must be read side by side.[4] Instead of the unicameral legislature which had existed till now two houses were erected, the First Volksraad and the Second Volksraad. The members of the First Volksraad were to be elected by persons who had already obtained the franchise or were still to obtain it by virtue of having been born in the country. Voters had to be sixteen years of age. Obviously this body would be practically the same as the old Volksraad. The electors of the Second Volksraad were persons who possessed the franchise for the First Volksraad and also other white male inhabitants of sixteen years of age who

[1] No. 193.
[2] Law No. 7 of 1882.
[3] No. 214.
[4] Nos. 219 and 220.

had resided for two years, who took an oath and paid £5. Anyone who for ten years was an elector of the Second Volksraad could become an elector for the First. This second body could legislate on matters relating to the mining industry, roads, the postal service, patents, companies, bankruptcy, civil and criminal procedure, and such other matters as the First Volksraad might at a future date delegate to its care. The First Volksraad could "deal with" any law passed by the Second Volksraad. The language of the Act is so vague that it could probably be regarded as within the competency of the First Raad to approve or amend or reject a law passed by the Second. If no change or rejection was made by the First Volksraad, and if, further, the President decided to publish such a law, then it was to take effect. No provision was made in the event of an amendment by the First Volksraad whether the law was to be referred back to the Second Volksraad or whether it was to take effect as amended. All that can be said in favour of these arrangements is that immigrants could get the right to vote after two years' residence, and that the body which they were to assist in electing could initiate legislation on some very important matters and that the other house—presumably—could not.

Two kinds of franchise.

In 1891 [1] and 1893 [2] the differences between the two kinds of franchise were further specified. Persons who possessed the franchise in 1890 and those receiving it by right of birth could vote for Field-cornets in their respective wards, for Commandants and members of both Volksraads in their respective districts, and for a President and a Commandant-General throughout the Republic. Those who became burghers by naturalisation, on the other hand, could only vote for Field-cornets, Commandants, and members of the Second Volksraad. And it was now left to the Government to decide in the end whether papers of naturalisation should be granted to any applicant or should be withheld. To the strictness of this law was added an unwonted rigidity, for it was laid down that no extension of the franchise could be effected unless the plan was published beforehand for one whole year. Even then it could be adopted only if two-thirds of the old electors agreed to it. The burghers of the Transvaal and their friends held that further privileges could not be given to the people of foreign birth because they were intriguing with persons outside the Republic and aimed at the destruction of the country's independence, while the other side maintained that the restlessness of the alien population was due to the withholding of constitutional rights.

[1] Law No. 13 of 1891.
[2] No. 224.

Matters remained on this footing till, during the closing days of 1895, the Transvaal was invaded by a force operating from the western border which intended to join hands with disaffected people in Johannesburg with the object of overthrowing the Pretoria Government. The effort failed. One of its results was that a law was passed giving the Government power to expel persons who were dangerous to the public peace.[1] Another result was that a close alliance was formed between the Orange Free State and the South African Republic.[2] No further extension of the franchise was made to the immigrants. Most of them were British, and Great Britain having espoused their cause a war broke out in 1899. On the 1st September of the following year the country was annexed to the British dominions, receiving the name which had previously been in general popular use, the Transvaal.[3]

The raid of 1895–96 into the Republic and its results.

By a commission dated the 8th October 1900 the High Commissioner for South Africa was appointed to be Administrator of the Transvaal and of the Orange River Colony. Military rule in the Transvaal came to an end on 21st June 1902, the date on which Letters Patent were published,[4] providing for the establishment of the office of Governor. Nominated Executive and Legislative Councils, both consisting of the same persons, were also created by this instrument which was dated 2nd August 1901. It was revoked by fresh Letters Patent dated 23rd September 1902, which provided for the government of the Transvaal on similar lines and also constituted the office of Lieutenant-Governor.

The Transvaal becomes a British Colony. Its constitution.

But in the Peace Treaty it had been agreed that as soon as possible representative institutions leading up to responsible government should be introduced. As a step in this direction it was intended to provide for the constitution of a partially nominated and partially elected Legislative Assembly, and Letters Patent to this effect, dated 13st March 1905, were actually issued ;[5] but a general election in the United Kingdom resulted in a change of Ministry, and the outcome was that before an election could be held in the Transvaal further Letters Patent were issued on the 6th December 1906, conferring full responsible government on the the Colony [6] and revoking the instruments of 23rd September 1902 and 31st March 1905. This is an interesting example of the way in which the Imperial Executive can sometimes employ prerogative powers to overcome the opposition of the legislature, for it was believed that the House of Lords was

Responsible government.

[1] No. 228. [2] Law No. 16, 1898. [3] No. 234.
[4] *Trans. Govt. Gaz. Extraord.* [5] [Cd. 2400.] [6] [Cd. 3250.]

hostile to the grant of responsible government at the time. The Letters Patent were published in the Transvaal *Government Gazette* on the 12th January 1907. There were two chambers, a Legislative Council and a Legislative Assembly. The Council consisted of fifteen members nominated in the first instance by the Governor. Vacancies were to be filled by the Governor in Council. In the Legislative Assembly sat sixty-nine members elected by white male British subjects possessing certain qualifications. It was provided that in the event of disagreement between the two chambers of the legislature, the Governor could convene a joint session, when matters at issue would be decided by an absolute majority of votes. The Transvaal had but a brief period of responsible government, for three years later she cast in her lot with the rest of South Africa in the Union of 1910.

SECTION VII.

THE UNION OF SOUTH AFRICA.

Early efforts to establish unions in South Africa.

A glance at the map of South Africa suggests that the country is by nature suited to form a single political entity. To bring about a union or federation of the various parts in some way was the ideal of many men on the spot and of imperial statesmen in London. Numerous unions had been conceived on South African soil and several had been put into effect. The earliest union actually established in South Africa dates back to the year 1840. Three different groups of persons who were engaged in evolving three separate governments formed what may be correctly called a federation. The people at Winburg acquired no legislative body, but fell under the control of a Raad to the north of the Vaal, which in turn performed legislative and executive functions under the auspices of a Volksraad which met in Natal. The Drakensberg barrier made the close association between Pietermaritzburg and the towns to the west impossible, and it has greatly influenced the subsequent history of those parts. Not many years passed before a second union was attempted. When, after the middle of the century, the Free State and the Transvaal arose as independent republics a party grew up in each State which agitated for a union of the two republics. In 1857 recourse was nearly had to war, but the attempt failed, thus making the achievement more difficult than ever. Whilst the movement was going on a suggestion for co-operation between the various governments came from the Volksraad of the Orange Free State. In 1854 it requested that the governments in South

Africa of European stock should assist each other in unavoidable wars with the natives.[1] Nothing came of the proposal at the time, but it is interesting to note that on subsequent occasions when the subject of federation was discussed the native question always figured very prominently. During that decade there were several agreements of union between outlying communities to the north of the Vaal River. By far the most remarkable of these was the union between the South African Republic and the Republic of Lijdenburg in 1859.[2] As regards the British territories it will be remembered that Natal was at one time united to the Cape Colony, but more as an ordinary district than as a partner in a large governing concern. Sir George Grey lost his office as Governor for recommending a confederation scheme at a time when it was not favoured by the Colonial Office. But the idea survived none the less. Long before the Government in London adopted the plan of federating the states and colonies it was discussed in the Cape colonial press, the Dutch inhabitants taking the lead in the matter. In 1875 came Lord Carnarvon's famous dispatch inviting the colonies and states to a conference to discuss the possibility of a closer political union.[3] The Cape Colony favoured the principle, the President of the Orange Free State seemed likely to bring round his Republic, and Natal was an enthusiastic supporter. The South African Republic opposed. It was brought under the British Crown in April 1877. In the middle of May 1877 the Cape Ministry drew up a minute which shows that they were lukewarm.[4] Before the end of the same month the Volksraad of the Orange Free State in the most courteous of terms declared itself completely opposed to confederation.[5] The scheme was wrecked for the time being and the permissive South Africa Act[6] passed by the Imperial Parliament to provide for the union under the British Crown of any two or more of the colonies or states could not be carried into effect. In 1886 another attempt was made to unite the Orange Free State and the South African Republic. A resolution was brought before the Volksraad in each country proposing to appoint commissions to negotiate with regard to an ultimate union between the two Republics.[7] The Free State rejected the proposal on the ground that by such a union its independence would be endangered by reason of the British suzerainty under which the older Republic was alleged to stand. The idea of union was a very familiar one to South Africans when out of the mists of war the new century

[1] Letter of the Secretary of the O.F.S. Govt. to Sir George Grey, 18th Nov. 1854; MS. in *P.R.O., C.O.*, 48/361.
[2] No. 188. [3] [C-1244], p. 1. [4] [C-1980], p. 14.
[5] *Ibid.* p. 18. [6] 40 and 41 Vict. cap. 47. [7] No. 210.

dawned on them.[1] Up to the time, with the exception of individual men of non-indigenous stock like Sir George Grey, Lord Carnarvon, and Cecil Rhodes, the movers towards the unification of the white peoples were in the main of Dutch extraction. They joined forces across the Drakensberg in the early years, they amalgamated to the south of the Limpopo, they tried to join hands across the Vaal, they worked for a united Cape Colony from 1836 till 1854, and in 1872 they prevented the splitting up of the Cape. There was very little coercion in these notable achievements, and in no case was the foundation laid in the blood of their fellow-countrymen.

Differences between early and later efforts.

During the early years of the twentieth century the situation was different to the one of 1875 in nearly every respect. All the territories were British. The desirability of uniting was pointed out to the various colonies, but no Act was passed at Westminster until each colony had been given the fullest possible freedom to accept or reject the suggested union. The delegates sent to the Convention at which the subject was discussed were not designated by the Colonial Secretary, as had been the case in the Carnarvon plan, but were appointed by the uninfluenced choice of the colonies themselves. During the efforts to work out the earlier scheme an unsympathetic Ministry at the Cape had been dismissed and another substituted. In Natal a part of the constitutional powers vested in the Legislative Council had been suspended, and the body had been radically reconstituted by adding to it eight nominee members and requiring that all laws imposing taxation should be carried by not less than two-thirds of the members present, the operation of these arrangements being limited to five years. The Colony had further been promised responsible government when and if they should federate with other territories. Now, however, there was no curtailment of colonial liberties or colonial independence of action. On the contrary, as an admittedly necessary preliminary to union the two newly conquered countries were given responsible government. Then the colonies worked out a scheme among themselves and all that was done in London was to sanction and register their wishes.

Reasons why imperial statesmen desired a union.

From the point of view of the imperial authorities the desirability of a union is obvious. Such union had already been achieved in the North American Colonies and in Australia. Both these events were regarded by many as necessary steps towards the federation of the Empire into a great Commonwealth of British dominions. For purposes of defence, too, a single

[1] *Vide* also the proposed Customs Union and the Postal Union of 1884, Nos. 206 and 208.

central government could act more energetically and effectively than a number of comparatively weak communities. Moreover, the unification of the colonies would be the surest means to counteract any tendency to separate that might remain in any of them. For the rest, people in England were watching the development of South Africa with lively interest, and the adoption of so desirable a measure was almost universally favoured.

Reasons why South Africans desired to unite.

While these considerations appealed to statesmen in Great Britain and South Africa alike, there were, as might be expected, many reasons which had special weight in the minds of the peoples most nearly concerned. The country is a land of idealists. The task of making a strong and happy nation caught the imagination of the young. The old were worn out with the strife of the previous century. The eye was turned to the future. In a young country with immense possibilities and opportunities the imagination runs little danger of becoming narrow. There is always fresh nourishment to feed it with. And the bulk of the people had for centuries been looking beyond the horizon with an overmastering desire to launch into the unknown. They now saw to the northward huge unsettled tracts of land which awaited occupation and development. The native problem loomed large on all occasions when the subject of union was mentioned. There was no danger that a serious native war would have to be faced, but the numbers of the coloured people were increasing very rapidly and they would want to expand. Their old habits of life needing large areas to grow their mealies and graze their cattle would have to be modified. Many of them were being educated and the systems of government would have to be readjusted. It was eminently undesirable that there should be marked differences in the manner of treating persons of the same blood and colour, perhaps in adjoining areas. A consistent, large and enlightened policy was needed and it could only be worked out by employing the most capable men in the whole country and backing them with the authority of some central power.

There was considerable scope for assimilating the laws of the various colonies in some respects. It might for instance be regarded as a joke when you heard that your friend had crossed a river for a few hours to get married in the Cape Colony because he wished to evade the marriage law of the Orange River Colony, but physiologists and eugenists would doubtless be shocked by a contract which sanctioned consanguinity; and they would probably urge that backward colonies should not be permitted to frustrate the good intentions of others that

were more advanced. The laws governing higher education needed the introduction of rational principles of training and examination, for the University of the Cape of Good Hope was only an examining and a degree-granting body, the most indispensable qualification of its examiners being that they should know nothing about the candidates beyond their powers of assimilation. The other colonies fell under the wing of the Cape University. The decision of the Transvaal, taken before the South African War, to erect its own University had had no chance of being carried out.

On economic grounds the argument in favour of union was also a strong one. It was necessary within certain limits to equalise taxation, to get an equality of customs duties for all the colonies, to end the old rivalry between the Cape and Natal seaports, to work the Government railways on a common basis and so avoid the recurrence of inter-colonial disputes. A considerable saving in the expense of administration could be effected, if only by avoiding the repetition in each colony of all the necessary ministerial offices and heads of departments. The combating of diseases in fruit, cereals, and stock would supply a very extensive field of labour which could be best performed by one Government with a consistent policy and the power to enforce it.

The constitution of the Union of South Africa.

Some of the outstanding provisions of the South Africa Act of 1909[1] may be briefly noted. The legislatures of the four colonies, the Cape, Natal, the Orange River Colony—it was now renamed the Orange Free State—and the Transvaal, ceased to exist and their powers were vested in the Union Parliament. This body consisted of two houses, the Senate and the House of Assembly. In each of the colonies, which now received the name of Provinces, a Provincial Council was erected. It had power to make ordinances with regard to direct taxation for provincial purposes, to elementary education, to municipal and divisional councils, and a number of other specified subjects of less importance. All other matters were delegated to the care of the Union Parliament. The Provincial Councils each had an Executive Committee just as the Union Parliament had its Executive Council. The King was declared the supreme head, and on his death his heirs and successors. It is interesting to note that for ordinary purposes there is no mention of the Crown, or of the King in Council, as had been the practice in earlier constitutional Acts passed in the colonies. The phraseology was copied from the Act establishing the Commonwealth of Australia. It is *the King* who may veto legislation. The King in Council, as far as the South Africa

[1] No. 235.

Act is concerned, means the King—or his representative, the Governor-General—acting with the advice of his South African Ministers. If his South African Council were to tender one kind of advice with regard to South African affairs and his Privy Council were to advise an opposite course the fundamental relations between the Union and the rest of the King's dominions would be affected. The letter of the law does not sanction the view that the South African democracy is subject to the democracy of the United Kingdom; but constitutional theory based on many decisions of the Judicial Committee has established the fact beyond controversy. The theory that the advice of the Ministers in England is the act of the Crown does apply to the self-governing dominions, though many attempts are being made in the dominions to question the doctrine. It is true that it has not been definitely or successfully challenged up to the present—perhaps because it has not been definitely formulated with reference to the dominions. On the outbreak of the European War, for example, an order was issued from London prohibiting the export of copper from South Africa to foreign countries, but that was a temporary measure calculated to meet common imperial needs in a time of great stress. It was probably taken after consultation with the South African Government, and may have been issued to assist that Government in its difficulties with Parliament and country. Still, in normal times the indications are that the South African Parliament would wish such an order to be registered by itself before it could take effect; and the matter will doubtless settle itself in the future if it is not complicated by tactless egotism on either side.

Extensive powers of the Prime Minister and the Cabinet.

The smooth working of the constitution depends very largely on the ability and tact of the Prime Minister. Somebody has said in days gone by that the Prime Minister of the United Kingdom has more real power than the Czar of Russia. In his own country and as regards internal affairs a colonial Prime Minister's authority is nearly as great. And throughout the Empire the authority of Prime Ministers tends to increase. Centralisation has gone a long way. It is obvious that under the system of cabinet government the popular control exercised over the Prime Minister and the rest of the executive is feeble and slow. The referendum as it exists in Switzerland would hardly help the people in directing administrative measures or controlling the management of affairs generally unless some machinery were devised to give them the power to annul as well as to sanction or reject. The Cabinet has certain arbitrary powers which are exercised by issuing orders

and, it sometimes publishes proclamations. It tends to become an autocracy in practice if not in law. But the South Africa Act gives legal sanction to this tendency in certain matters. The Schedule, which is one of the most interesting portions of the instrument, provides that when any of the native territories still under the Crown is taken over by the Union, the Prime Minister shall be charged with the administration of such territory. He will be advised by a commission of three or more members appointed by the Governor-General in Council. Here obviously the term Governor-General in Council means the Governor-General acting with the advice of his South African Ministers. The extension of the Cabinet's powers has results of two different kinds. It limits the chance of control by the electors, but it also narrows the authority of the imperial representative. Prior to the date of Union in the three younger colonies native affairs were much under the influence of the Government in London. Provision was made in the Act of 1909 that at some future date that influence should cease. But at the same time those parts where the natives were most numerous and had all along enjoyed special privileges of their own were placed beyond the control of the popular legislature. This was following the arrangements of the old Free State Republic. Indeed it was a principle which had been recognised as sound throughout South Africa, but which had in the other parts been carried out in a more half-hearted manner.

That suggests an inquiry as to how far in other respects the Act of Union was a consummation of the earlier history of the various parts of the country, to what extent it was a development of earlier constitutional arrangements. Most of the great principles of democracy were retained: the elective principle in the various governmental bodies, in a certain degree the responsibility of the executive to the legislature and of the legislature to the electorate, in a large measure the certainty that in administering justice the judges would pronounce sentence according to the laws without fear or favour. Except for one large and important body of people, the mining population in the Transvaal, who had naturally received the franchise on the introduction of responsible government, no person received constitutional liberties which he had not enjoyed for very many years. Where the natives were already enfranchised they retained their rights. In other places they were left in their old situation. Every person became a small unit in a great whole and his power to influence the direction of his concerns was greatly lessened. In the Transvaal and the Orange Free State the people had in 1902 lost

The Union does not represent any real constitutional advance.

their control of foreign policy and the right to sanction or veto the appointment of public officials. Everywhere local traditions and individual tastes were limited in their scope. Yet the idea of union was a grand one. Political parties in each colony were anxious to amalgamate with corresponding parties in the others. Union would give a better chance to consolidate and to expand, it promised to advance their material prospects, and the people decided—in so far as they were in a position to decide at all—that it would be to their advantage to unite.

Centralisation pushed very far.

The Union was a very real one, much more so than in Australia or Canada. It may seem strange that the delegates who had the drafting of the Bill went to such extreme lengths in the process of centralisation, for many of them must have known that the early history of the country had brought to light strongly local and individualistic tendencies. Possibly it was with set purpose that they proceeded to counteract those tendencies as being subversive of real strength and unity of purpose, though this could hardly have been the attitude of the majority of the delegates. It should be noticed, however, that during the previous fifty years the old individualism had been considerably weakened by different forces that operated in each of the countries. That is the only sense in which the Union of South Africa is the natural outcome of its previous history. Yet individualism had by no means disappeared, as is witnessed by the history of South Africa's troubles since 1910. But the real explanation probably lies therein that at the time of the meeting of the delegates there were brought under discussion the constitutions of several confederations: the Swiss, the German, the American, the Canadian, and the Australian. The weak points of each of these were pointed out, and the delegates, several of whom were lawyers, must have been struck by the amount of litigation that had been going on in Canada and particularly in Australia arising from the division and distribution of powers between the central and the local legislatures. Except in a few matters they decided that the Provincial Legislatures should occupy a position quite subordinate to the Union Executive and the Union Parliament. As the Executive Council may sanction or reject provincial ordinances, it is very unlikely that disputes leading to litigation will arise. That is another illustration of the great powers reserved to the central executive. It is further obvious that no matters will be referred to the Privy Council, so that imperial influence must be greatly weakened. More than that: no appeal from the Supreme Court of South Africa to the King in Council is

allowed, except when the King in Council grants special leave to appeal. Colonial autonomy has been carried much further in the Union than in either of the other two great Dominions.

The future of the natives.

Everything points to the likelihood that the native problem will always be with political workers in South Africa. Prejudice of colour and race is very strong, but it is in some measure understandable if we remember that Europeans have complicated the matter by employing the natives on more than one occasion to fight Europeans. But it will be wise to make a real effort to bury the past for the sake of winning a brighter future. There can be no intention to place the bulk of the black-skinned races permanently in a position of subordination, for that would be nearly tantamount to a form of slavery. The tendency is to-day to reserve tracts of country for occupation by natives wherever that is still possible. The whole history of the last century seems to suggest that for the present that scheme is the only way to prevent the undesired contact between whites and blacks, which has not been beneficially felt by either, but least of all by the natives. There should be no hurry in trying to colour the native with the civilisation of the European by the agency of uncontrolled association. There are highly educated natives who are the ideal teachers of their own people, and perhaps the Union Government will assist in the training of others. When competition arises between natives and Europeans, the white man may well be left to fend for himself. In the meantime there seems to be no reason why in the native reserves the people should not be given municipal government on the same lines as those laid down for the white population. The natives are backward, it is true, but they will be backward only so long as the white men choose to keep them so. If their sense of responsibility can be called forth, half the battle will be won. In the end they must take their place side by side with other citizens of the Union, but it is not necessary to remark here on all that that will involve, for it lies in the remote future, when the outlook of South Africans of European extraction may have altered.

South Africa's future within the Empire.

As South Africa is by no means a sovereign state it is almost impossible not to theorise at the present time with regard to the future of her constitutional position within the Empire. The world is moving so rapidly and the conservative instincts of humanity are being so rudely shaken that the reception of ideas is accomplished with unusual readiness. In the Empire there are two classes of thinkers who desire to take advantage of this

unwonted receptiveness, both including men of the highest ability and political wisdom. One class is moving for the federation of the Empire. The exact form has not been agreed upon, and many different paths are still being pointed out; but eventually some scheme that finds general favour will be arrived at. The other class stands for the maintenance of the present situation and the preservation, or perhaps even the extension, of the constitutional liberties already granted. The former class desires a return to protection in trade and advocates an imperial customs union, while the latter pleads for free trade and the unrestricted association with the other nations of the world. All matters with which the citizen of the Empire is concerned are involved in the speculations of the two opposing schools, questions of nationality, language, economics, domestic politics, foreign relations, travel, education, science, art, and man's outlook on life generally. Pushed to their logical conclusion one view leads to a highly organised Empire which will be all in all to itself, the other brings its supporters to exchange goods and ideas and ideals with other nations of the world and may conceivably lead to the control of foreign policy by the people and even to internationalism, in one form or another. But it is not easy to see very far ahead and, perhaps fortunately for its supporters, it is seldom possible to push a view to its extreme limits at any one epoch. After all, we can influence the rate or direction of our growth only very slightly, and our premeditated action is more likely to spoil than to improve. The one view is based on the assumption that the colonies are bent on secession and aims at restraining them. The other is grounded on the belief that the colonies only desire the greatest possible degree of freedom which is compatible with the maintenance of the imperial connection.

The suggestion for imperial federation leads to counter-suggestions.

The student of history keeps wide awake to these discussions and he is chiefly interested in the academic aspect of the disputations, for he sees before him constitutional history in the making. But he observes that in South Africa the agitation for imperial federation has had the result of raising a counter claim—curious perhaps and uninstructed in itself, but not entirely inexplicable under the circumstances—that when at any future time the imperial authorities get involved in a war it should be the right of any one of the dominions to decide whether it shall participate or stand out. A similar suggestion has been raised in Canada. That is an extreme counter-irritant to imperial federation; but imperial statesmen know that the colonies and dominions as well as India are not, nor are they likely to be at any time, unwilling to

contribute to the utmost of their power towards performing the common duties of them all as long as there is no curtailment of their freedom. It is extremely unlikely that this attitude will be abused or alienated by precipitate inconsiderateness. No doubt as regards commerce and foreign affairs the colonial governments will in future be consulted and action will be taken only if there is no strong objection on the part of any of them. That this was, to some extent at least, the practice before the war can hardly be doubted. Possibly such informal procedure will conduce more to the peace and welfare of the proletariat in the various countries concerned than could any federal executive with the consciousness of having behind it millions of men who can be called to arms by signing and issuing a proclamation; and it seems as if such an executive could never in practice be called to account by anybody. It seems to be an absolute negation of democracy. At any rate great tact and moderation will be exercised in moving for constitutional changes, for the liberties granted to the colonies in the past have extended so far that it will not be an act of real statesmanship to appear to withdraw any of them. Without those liberties the Empire could not have stood and grown, and they have therefore acquired the character of goods delivered in fulfilment of a contract. To adapt a wise man's saying: if the tie that holds together the separate parts of the Empire is strong as steel that is only because it is as light as a feather.

Imperial conferences have laid down lines of policy without reference to the peoples committed thereby. The delegates have agreed to suggestions and action has been taken on such agreement. The opportunity of making up their minds and expressing their wishes has been withheld from the people, whether unavoidably or with set purpose makes no difference. But there is undeniably a general tendency to do away with that method of procedure. The British peoples seem to be outgrowing the old system. They demand that they should know of every contemplated step that will affect them. They argue that if they know and endorse their commitments then they cannot be otherwise than faithful to them, but they demand to know and they state that they have a right to decide and that no one else has such a right. They further assert that as regards foreign policy if the British Empire transacts its business in public no other power will very long be able to take shelter in secrecy as a normal process of negotiation. It is obvious that in this respect liberties can not be extended to the colonies until they have begun to be enjoyed in the United Kingdom. Whatever the future

utility of imperial conferences may be, their significance has not been generally grasped in the past, not even in the most advanced colonies. Whether the institution will be extended and made permanent so as to effect a virtual federation of the Empire seems doubtful, as the delegates will certainly in future be called to account by their legislatures, so that their decisions will have no binding effect.

Names and phrases and catch-words often have the effect of obscuring the thoughts that lie behind them. It may be that those who speak of a Commonwealth of Nations and those who are labouring to establish a Self-contained Empire have somewhat different roads in view by which to reach the same goal. Possibly, too, the one term is meant to attract one class of people, and the other to satisfy another class. In the United Kingdom propaganda of a determined character has been proceeding, but in the dominions there is a great deal of hostility and misapprehension arising from ill-timed and ill-considered agitation. Any scheme that may be submitted to the peoples of the Empire in the near future will probably be decided on without their grasping the issues at stake. There can be no intention to force a decision until the whole question in all its bearings is everywhere understood. The people will be honestly told that they are to decide whether there is to be greater scope for individual and local liberty, for self-development along fairly democratic lines, or whether for the sake of a powerful Empire they will sink their provincial ambitions. Either course has its attractions. Temperament, education, lack of education, and past history will decide for individual men and women as for the various peoples the course to be favoured. There seems to be a great parting of ways in the Empire, and any action taken will greatly influence the world's history. The maintenance of peace in the future is the great object which the bulk of the human race is trying for the moment to assure. The question is whether that peace can be best preserved by organising into a complicated but perfect fighting-machine a large number of groups of peoples whom no one power will dare to assail, or by allowing each group freedom to act or stand out as its own inclination dictates. But there is a further and vastly more important question: will a highly organised Empire or a number of separate and semi-independent dominions give greater freedom of action to the individual and contribute to the common fund of human liberty which has been painfully but steadily accumulated during the ages, and which has been and is still to-day the great fountain of inspiration for the oppressed? Ultimately, of course, we get involved in a

consideration of the whole aim and object of human existence, but here it is only necessary to note the issues as they dimly seem to unfold themselves, leaving it to historians to present the narrative when the events have been played off.

SELECT DOCUMENTS.

CHAPTER I.

THE CAPE OF GOOD HOPE.

SECTION A.

CENTRAL GOVERNMENT.

REQUEST FOR AN ORDER TO SURRENDER THE CAPE.

No. 1. *Letter from* LORD GRENVILLE *to the* DUKE OF YORK AND ALBANY.

DOWNING STREET, *1st February* 1795.

SIR,—As it appears of the utmost importance, particularly from the Letters this day received from Captain Berkeley, that the Prince Stadtholder should give to the different officers and Commanders of the Forts and Vessels of the Republic such orders as may distinctly mark the real situation in which His Serene Highness is placed, and may authorize them to avail themselves of that protection which His Majesty is desirous of holding out to them, according as circumstances may permit; His Majesty's servants have thought that a Proposal of this nature, the urgent necessity of which is so apparent, could not in any manner be brought forward with so much advantage, as if Your Royal Highness would have the goodness to charge yourself with it.

Your Royal Highness is too well acquainted with all the bearing of this important point, to make it at all necessary to dwell on the arguments which will prove to His Serene Highness, in the most indisputable manner, that the line now pointed out is what He owes as much to the interests of the Republic, as to those of His own House, and of the high dignity with which He is invested.

There would be no difficulty in giving to His Serene Highness any assurance that He might wish, that any Ships of War or Forts, surrendered in consequence of such order, would be restored to the Republic at the conclusion of a General Peace, by which Her Independence and Constitution should be secured.

I have the Honor to enclose to Your Royal Highness the Draft of an order, which has been prepared on this idea; and it would be desirable if His Serene Highness could be persuaded to adopt this Form.

Enclosure in above.

WHEREAS I W. Prince of Orange, Hereditary Stadtholder of the States General of the United Provinces, and Hereditary Governor of each Province, and Captain General and Admiral of the Forces by Land and Sea belonging thereto, have been compelled by the Entrance of a Foreign Armed Force into the Territories of the same, to withdraw myself therefrom, and to retire into the Dominions of the good Friend and Ally of Their High Mightiness The King of Great Britain, and whereas I am thereby illegally and unjustly prevented from exercising in Person within the said Province the Functions of the said High Offices and of all other Offices and Powers with which I am legally and constitutionally invested, I do by this Declaration, subscribed in due form and in the presence of lawful Witnesses, notify to all Commanders and Governors, Civil and Military, of all Forts, Castles, Garrisons, Ports, Settlements, Plantations and Colonies belonging to the States General and to all Admirals and Commanders of Ships of War belonging to the same, and do strictly enjoyn them, that They forthwith deliver up Possession of the said Forts, Castles, Garrisons, Ports, Settlements, Colonies and Ships of War to the King of Great Britain or to such Persons as He shall authorize to receive Them, in order that They may be secured from falling into the possession of the Enemy; and under special Trust and Confidence solemnly assured on the Part of His Britannick Majesty, that the same shall be restored in full Sovereignty and Use to Their High Mightinesses, as soon as ever it shall please God to restore to my afflicted Country the Blessings of Independence and of its ancient and established Form of Government.

Subscribed in the presence of

(L. S.)

Rec. I. 26.

ORDER TO ADMIT BRITISH FORCES INTO THE CAPE.

No. 2. *Order from the* PRINCE OF ORANGE *to the* GOVERNOR OF THE CAPE OF GOOD HOPE.

KEW, *7th February* 1795.

To The Governor of the Cape of Good Hope.

We have thought it right to write to you by this opportunity, and to charge you to admit into the Fort under your

command such Troops as may be sent thither on the Part of His Brit. Majesty, and to receive into Table and False Bays and other Harbours and Places where Ships can remain with Safety all Ships of War, Frigates or Armed Vessels that may be sent from His said Brit. Majesty, and to look upon them as Troops and Ships of a Power in Friendship and Alliance with Their High Mightiness, and that come to prevent the Colony from being invaded by the French.

(Signed) W. Pr. of Orange.

By Command of His Highness, In the Absence of the Private Secretary.

(Signed) J. W. Boejenk.

[*Copy translated.*] *Rec.* I. 28.

THE FIRST SURRENDER OF THE CAPE TO THE BRITISH.

No. 3. *Articles of Capitulation.*—Rustenburg, 16*th Sept.* 1795.

Art. 1. The capitulation being signed the Castle and the Town are to be surrendered to a detachment of His Britannick Majesty's Troops at 11 o'clock this day.

Art. 6. Everything that belongs to the Company shall be handed over in strict honour without the withholding of anything, after an inventory has been made; but the property of the Company's servants . . . as well as that of all the burghers and other inhabitants shall remain free and intact, as shall also all that belongs to the churches, to the orphans and to the public bodies.

Art. 7. The colonists shall retain all the privileges which they now enjoy, including their present religion, without any change.

Art. 9. No new imposts shall be introduced, but on account of the decay of the Colony, the taxes shall be lessened as much as possible.

Art. 13. Finally, no persons, whether they be servants of the Company, sailors, soldiers, burghers, or any other, shall be pressed into or engaged for the service of His great Britannick Majesty, except it be of their own free will.

Rec. I. 127.

APPOINTMENT OF THE FIRST BRITISH COMMANDANT. [30 Sept. 1795.]

No. 4. *Appointment.*—By General Alured Clarke, Commander-in-Chief of His Majesty's Troops, and Vice-Admiral

Sir GEORGE KEITH ELPHINSTONE, Commander-in-Chief of His Majesty's Fleets and Ships of War in the Indian Seas, etc.

WHEREAS His Majesty has been pleased to appoint us to be Commanders-in-Chief of His Land and Sea Forces, employed on an Expedition in the course of which the Colony of the Cape of Good Hope has surrendered to His Majesty by a Capitulation dated on the 16th Instant. And whereas His Majesty among other Articles of Instruction with which he has been pleased to charge us has directed that in the event of the surrender of this Colony we should arrange and settle such matters as may be necessary for the internal regulation of the Affairs thereof. Now we, considering that it will materially tend to the purpose aforesaid as well as to the furtherance of His Majesty's Service, Do hereby appoint you to be Commandant of the Town and Settlement of the Cape of Good Hope, authorizing you to take upon you the Charge of all Duties and of all manner of things both civil and military appertaining to the duty of Commandant aforesaid.

To Major-General Craig.

Rec. I. 175.

OATH OF ALLEGIANCE REQUIRED OF INHABITANTS. [7 Oct. 1795.]

No. 5. *Proclamation.*—By General ALURED CLARKE, Vice-Admiral Sir GEORGE KEITH ELPHINSTONE, K.B., and Major-General CRAIG, etc. etc.

. . . It is hereby declared that all persons whatever continuing to reside in the Colony, and thereby to enjoy His Majesty's protection, although they may not have individually or actually taken the oath hereby required, will nevertheless be considered as having virtually acceded thereto, will be looked upon as subjects, will as such enjoy every right and privilege belonging to that quality, and will be liable to all the pains and penalties attached to the crime of treason in case of any act contrary to their allegiance as such.

And if there are any persons who preferring the government of any other power, do not chuse to become subjects of great Britain, all such are hereby required to notify such their intentions, as they will be allowed a reasonable time to settle their affairs, after which it will be expected that they do withdraw from the Colony.

Rec. I. 178.

APPOINTMENT OF OFFICIALS. [10 Oct. 1795.]

No. 6. *Proclamation.*—By General ALURED CLARKE, Vice-Admiral Sir GEORGE KEITH ELPHINSTONE, K.B., and Major-General CRAIG, etc. etc.

WHEREAS we have judged it expedient to appoint a Collector-General, Collector of Land Revenue, and a Treasurer:

We hereby make known that—

1st. Mr. J. I. Rhenius is to take upon himself the office of Collector-General and Treasurer.

2nd. Mr. C. Brandt, Collector of the Duty of Imports and Exports of Merchandise and Produce together with the duty of the Cape Wine and Brandy, and of the tythes of Corn on being brought to Town. Wherefore all persons desirous of Importing or Exporting any Merchandise or produce are to apply to the said Mr. Brandt, and the duty of the said Cape Wine together with the tythes of the said Corn are to be paid with ready Money to the Clerks who will be appointed for that purpose at the Main Guard of the Imhoff Battery as has been Customary.

3rd. Mr. J. P. Baumgard, Collector of the Revenue which is yearly paid by the Farmers for permission to cultivate and feed Cattle in the Lands of the Company and of the Revenues proceeding from other Lands.

Rec. I. 184.

INSTRUCTIONS ISSUED TO THE GOVERNOR OF THE CAPE COLONY. [30 Dec. 1796.]

No. 7. *Instructions* to Our Right Trusty and Right well-beloved Cousin and Counsellor GEORGE, EARL OF MACARTNEY, K.B., Our Governor and Commander-in-Chief in and over the Settlement of the Cape of Good Hope in South Africa —Given at Our Court at St. James the Thirtieth Day of December, one thousand seven hundred and ninety-six, in the Thirty-seventh year of Our Reign.

1st. With these Our Instructions, you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander-in-Chief in and over the Settlement of the Cape of Good Hope in South Africa, now in Our Possession. In the Execution therefore of Our said Commission you are to take upon you the administration of the Government of the said Settlement and to do and execute all things belonging to your Command according to the several powers and authorities of Our said Commission under

Our Great Seal of Great Britain, and of these Our Instructions to you, and according to such further Powers, Instructions and Authorities as you shall at any time hereafter receive under Our signet and sign manual, or by Our Order in Our Privy Council, or by Us through one of Our principal Secretaries of State.

2nd. [The Governor is to take at the Cape various oaths prescribed by Acts of Parliament.]

3rd. [The Governor is to administer oaths or take declarations from all persons appointed to places of trust or profit in the Colony.]

4th. It is Our Royal Will and Pleasure, That for the present, and until Our pleasure shall be further signified, the Temporary Administration of Justice and Police in the Settlement, should, as nearly as circumstances will permit, be exercised by you in conformity to the Laws and Institutions that subsisted under the antient Government of the said Settlement, subject to such Directions as you shall now or hereafter receive from Us, under Our signet or sign manual, or by Our Order in Our Privy Council, or from Us through one of our principal Secretaries of State, and to such Deviations, in consequence of sudden and unforeseen Emergencies, or to such Expedients and useful alterations as may render a Departure therefrom either absolutely necessary and unavoidable, or evidently beneficial and desirable, and which you are immediately to represent to one of Our Principal Secretaries of State for Our Information. But it is, nevertheless, Our especial Command that all the powers of Government within the said Settlement, as well Civil as Military, shall be vested solely in you Our Governor, or in the person having the Government of the said Settlement for the time being, and that such powers as were heretofore exercised by any person or persons separately or in conjunction with the Governor of the said Settlement, shall belong solely to you Our Governor, or to the person having the Government of the said Settlement for the time being; And it is Our Will and Pleasure, that all public Acts and Judicial proceedings shall henceforth be done issued and performed in the name of the Governor, and shall, previous to their being published and put in execution, be signed by the Chief Secretary to the Government by the authority of the Governor or the person having the Government of the said Settlement for the time being.

5th. Whereas it has been represented to Us, That the practice of proceeding by Torture against persons suspected of Crimes, and of punishment after Conviction in many Capital Cases, by breaking upon the wheel and other barbarous modes of Execution, prevails in the said Settlement, It is Our Will

and Pleasure that you should wholly abolish these forms of Trial and Punishment, and provide other more lenient and equitable proceedings, which it is left to your Judgment and Discretion to establish and enforce in the said Settlement.

6th. [The Governor is to report fully on the establishments for the administration of justice and to recommend improvements where necessary.]

7th. Whereas from the Statements that have been laid before Us of the Financial System and Regulations established in the said Settlement, it appears to Us, that they are, in a high Degree, oppressive and vexatious, Our Will and pleasure therefore is, that you do make this Branch of the Publick administration one of the first objects of your attention, and that you do, without delay, afford Our subjects at the said Settlement such relief from the Fiscal oppressions under which they now labour, as you shall judge expedient, and particularly by abolishing monopolies, pre-emptions and exclusive privileges, and prohibitions and Restraints, to the free exercise of their Industry, either in Agriculture, Manufactures or other pursuits of interior Commerce, and establishing in lieu thereof such reasonable Duties or Taxes as shall appear to you expedient. And as the public Revenue of the said Settlement has been hitherto principally derived from these resources, or from others apparently grievous and injurious to the Interests and Prosperity of the said Settlement, We hereby require you to consider and carefully investigate this subject, and transmit a full and explicit Report thereon to one of Our principal Secretaries of State for Our Information, specifying, under distinct heads, the different Resources from which the Revenue was derived under the former Government, distinguishing those which shall have been abolished, and also the substitutes which shall have been established, or may, in your opinion, be established, and you will also transmit a Copy of this Report to Our High Treasurer, or The Lords Commissioners of Our Treasury for the time being, and also a Copy to the Committee of Our Privy Council for Trade and Plantations.

8th. Our Will and Pleasure is That the Revenue derived from the Annual Quit Rent paid by the Persons holding Lands granted to them by the Dutch Government shall continue to be collected, but that all arrears due anterior to the Capture of the Settlement by our Forces shall be remitted; And We hereby strictly require of you to take the necessary measures for ensuring hereafter a due regularity in the payment of the said Quit Rents, as the only means of preventing the Loss occasioned to the Revenue by the accumulation of such arrears, and if, in any case, the said Quit Rents should appear excessive and disproportioned to the means and Faculties of the Land-

owners, We authorize you to grant such reductions as circumstances may appear to require.

9th. [The Governor is to send a full report on the paper money, observing how far it may be replaced by specie.]

10th. [The Governor is to send an account of the rules regulating the importation of slaves, the laws existing for their protection, etc., with his opinion as to the expediency of prohibiting such importation in future.]

11th. [The Governor and the Lieutenant-Governor are to form a court of appeal in civil cases. *Vide* document No. 65.]

12th. Our will and pleasure is, That all Orders, Regulations, or Laws, made by You or Our Lieutenant-Governor shall, when transmitted by You for Our Information, and for the signification of our pleasure thereon, be fairly abstracted in the margins, and accompanied with very full and particular observations, upon each of them,—that is to say—Whether the same is introductory to a new Order, Regulation or Law then before in being, and you are also to transmit in the fullest manner, the reasons and occasions for making such Orders, Regulations or Laws.

13th. You are to give Warrants under your hand for the issuing of public monies for all Services, and We do particularly require you to take care that regular accounts of all receipts and payments of public monies be duly kept, and that copies thereof, attested by you, be transmitted every half-year, or oftener if there should be occasion, to Our Commissioners of Our Treasury or to Our High Treasurer for the time being, and Duplicates thereof by the next conveyance; in which accounts shall be specified every particular sum raised or disposed of, to the end that We may take such measures as We may deem necessary for the Examination of the said accounts, and that We may be satisfied of the right and due application of the Revenues of the said Settlement, and with the probability of the increase or diminution of them under every head and article thereof.

14th. You shall not remit any Fines or Forfeitures whatsoever, until, upon signifying unto the Commissioners of Our Treasury, or Our High Treasurer for the time being, the nature of the offence and the occasion of such Fines and Forfeitures, with the particular sums or value thereof, (which you are to do with all speed) you shall have received Our Directions thereon; but you may in the meantime suspend the payment of the said Fines and Forfeitures.

15th. And you are on every occasion to transmit to Us, through one of Our Principal Secretaries of State, with all convenient speed, a particular account of all new Establishments of Jurisdictions, Courts, Offices, and Officers, Powers

and Authorities, Fees and Privileges granted and settled within the said Settlement, as likewise an account of all the Expences (if any) attending the Establishment of the said Courts and Offices.

16th. [The Governor is to transmit a table of fees which he considers should be received by the Courts of Justice.]

17th. It is Our further Will and Pleasure, that all Commissions to be granted by you to any person or persons for exercising any Office or Duty, relating to the administration of Justice, or to the preservation of the public peace, or other necessary offices, be granted during pleasure only.

18th. [Justice must be administered impartially and without delay.]

19th. You shall not suffer any Person to execute more offices than one by Deputy.

20th. [The Governor is to draw up and transmit a table of custom-house dues which he may consider suitable for adoption at the ports.]

21st. You shall not by colour of any power or authority hereby or otherwise granted or mentioned to be granted unto you, take upon you to give, grant or dispose of any place or office within the said Settlement which now is or shall be granted under the Great Seal of this Kingdom, or to which any person is or shall be appointed by Warrant under Our Signet and Sign Manual, any further than you may, upon the vacancy of any such office or place, or upon the suspension of any such officer by you as aforesaid, put in any fit person to officiate in the interval, till you shall have represented the matter to Us, through one of Our Principal Secretaries of State, which you are to do by the first opportunity, and till the said office or place is disposed of by Us, Our Heirs or Successors, under the Great Seal of this Kingdom, or until some person shall be appointed thereunto, under Our Signet and Sign Manual, or until Our further Directions be given therein.

22nd. [The Governor is to send a report on the Crown lands in the Colony, their nature, products, wealth in minerals, etc., and to recommend a manner of issuing grants of such lands on reasonable terms.]

23rd. [The Governor is to report on the rivers and harbours, observing how far any new fortifications would be necessary at the landing-places.]

24th. [The Governor is to report in how far the erection of fortifications in the interior is necessary for defence against the natives, and how the goodwill of the natives may be won and trade with them advanced.]

25th. Whereas the Establishment of proper regulations in matters of Ecclesiastical concern is an object of very great

Importance, it will be your indispensable Duty to take care that no arrangement in regard thereto be made, but such as may give full satisfaction to Our New Subjects, in every point in which they have a right to any indulgence on that head, and you are to permit liberty of Conscience, and the free exercise of Religious Worship, to all persons who inhabit and frequent the said Settlement, provided they be contented with a quiet and peaceable Enjoyment of the same, without giving offence or scandal to Government.

26th. [The Governor is to report his opinion as regards steps that may be taken for erecting and maintaining schools.]

27th. And it is Our further Will and Pleasure, That no person shall be allowed to keep a school in the said Settlement without your Licence first had and obtained, in granting which you are to pay the most particular attention to the morals and proper qualifications of the persons applying for the same.

28th. And it is Our Will and Pleasure, that you, or, in your absence, Our Lieutenant-Governor, or the Person for the time being having the Government of the said Settlement, have the power of collating the Benefices, granting Licences for Marriages and Probates of Wills, commonly called the office of Ordinary, but it is our express Will and Pleasure, and you are hereby directed and required not to grant Deputations for the exercise of the said Powers, to any Person or Persons whatsoever in the said Settlement under your Government.

29th. [Annual returns must be transmitted showing the number of inhabitants, the state of the trade, agriculture and fisheries, and the number of ships employed at the settlement.]

30th. [The Governor is to act as Vice-Admiral of the settlement.]

31st. [His powers are restricted in the issuing of commissions to ships of war.]

32nd. [The Governor must proceed according to Acts of Parliament in trying persons for piracy.]

33rd. [He must report on the institutions of the Colony as they existed during the Dutch period.]

34th. [He must send returns of all ammunition and military stores in the Colony.]

35th. You are hereby particularly authorized and required, for the better security of the said Settlement, and for the maintenance of good order within the same, to raise such Troops therein, and to call out and embody such Companies of Corps of Militia as you shall judge necessary for that purpose, and fine or imprison such persons as refuse to be enrolled and to serve. With the same view of maintaining order and good Government, you are also authorized to

disarm such of the Inhabitants of the said settlement as are not Proprietors or are not employed in any Civil or Military Capacity, or have not your Licence for keeping their Arms, and to remove and send away from the said Settlement such persons as you shall suspect of adhering to Our Enemies, and all such other Persons the continuance of whose residence you may have reason to imagine might be inconvenient or prejudicial to the peace, good order or Security of the said Settlement.

36th. [Vessels carrying letters must be instructed to sink such letters in case of imminent danger from enemy ships.]

37th. If any thing shall happen which may be of advantage or security to the said Settlement, which is not herein, or by your Commission, provided for, We do hereby allow unto you to take order for the present therein, giving unto Us, through one of our principal Secretaries of State, speedy notice thereof, that you may receive Our ratification, if We shall approve the same, provided always that you do not, by color of any power or authority hereby given you, Commence or Declare War without Our knowledge and particular Commands therein, except it be for the purpose of preventing or repelling Hostilities or unavoidable Emergencies.

38th. [The Governor is not to depart for Europe without leave being first obtained.]

39th. [He must transmit an account of all his proceedings.]

40th. [The Crown reserves full power to determine in future anything with regard to the Colony, just as if the Governor's commission and these Instructions were never issued.]

Rec. II. 3.

FEES OF OFFICE.

No. 8. *Letter* from the WAR OFFICE to the EARL OF MACARTNEY.

PARLIAMENT STREET, *7th January* 1797.

MY LORD,—His Majesty having been pleased to determine that the Fees and Perquisites which may be received by any Public Offices established, or to be established under the Government of the Cape of Good Hope, should in no case whatever belong to the Person or any of the Persons employed in such Offices, by right of Office and without account; but that all such Fees and Perquisites should be appropriated to the payment of the fixed appointments of the Persons employed in such Offices, as far as they will go for this purpose, and it being His Majesty's further Pleasure that in case of their exceeding in any particular Office the expence of the

Establishment of that Office, the Surplus, whatever it may be, shall be appropriated to discharge the Expences of such other Offices as may be deficient in this respect, and in case there should be any surplus in the whole, then that it should be paid into the Treasury of the Settlement, and be applied in aid of the other Branches of the Public Expences. I am commanded to acquaint your Lordship with these Dispositions, and beg leave to suggest as the best method of carrying them into execution that you should direct the whole amount of all Fees and Perquisites above described to be collected quarterly into one Fund, from which they might be appropriated and accounted for in the manner above mentioned.

Rec. II. 35.

No. 9. TREATY OF AMIENS.[1] [27 March 1802.]

Between HIS BRITANNIC MAJESTY on the one hand, and the FRENCH REPUBLIC, His Catholic Majesty, and the BATAVIAN REPUBLIC on the other.

ART. III. His *Britannick* Majesty restores to the *French* Republick, and her Allies; namely, His Catholick Majesty and the *Batavian* Republick, all the Possessions and Colonies which belonged to them respectively, and which had been occupied or conquered by the *British* Forces in the Course of the War, with the Exception of the Island of *Trinidad*, and the *Dutch* Possessions in the Island of *Ceylon*.

ART. VI. The *Cape of Good Hope* remains in full Sovereignty to the *Batavian* Republick, as it was before the War.

The Ships of every Description belonging to the other contracting Parties shall have the Right to put in there, and to purchase such Supplies as they may stand in need of as heretofore, without paying any other Duties than those to which the Ships of the *Batavian* Republick are subjected.

ART. XII. The Evacuations, Cessions, and Restitutions, stipulated for by the present Treaty, except where otherwise expressly provided for, shall take place in *Europe* within One Month; in the Continent and Seas of *America*, and of *Africa*, within Three Months; and in the Continent and Seas of *Asia*, within Six Months after the Ratification of the present Definitive Treaty.

ART. XIII. In all the Cases of Restitution agreed upon by the present Treaty, the Fortifications shall be delivered up in the State in which they have been at the Time of the Signature of the Preliminary Treaty; and all the Works which

[1] Published by Authority. London, 1802.

shall have been constructed since the Occupation, shall remain untouched. . . .

With respect to the Inhabitants of the Countries restored or ceded, it is agreed that none of them shall be prosecuted, disturbed or molested in their Persons or Properties under any Pretext, on account of their Conduct or political Opinions, or of their Attachment to any of the contracting Powers, nor on any other Account, except that of Debts contracted to Individuals, or on Account of Acts posterior to the present Treaty.

ART. XIV. All Sequestrations imposed by any of the Parties on the funded Property, Revenues, or Debts of whatever Description, belonging to any of the contracting Powers, or to their Subjects or Citizens, shall be taken off immediately after the Signature of this Definitive Treaty. The Decision of all Claims brought forward by Individuals, the Subjects or Citizens of any of the contracting Powers respectively, against Individuals, Subjects or Citizens of any of the others, for Rights, Debts, Property, or Effects whatsoever, which, according to received Usages and the law of Nations ought to revive at the Period of Peace, shall be heard and decided before competent Tribunals; and in all Cases prompt and ample Justice shall be administered in the Countries where the Claims are made.

* * *

Done at *Amiens*, the Twenty-seventh Day of *March* One thousand eight hundred and two; the Sixth *Germinal*, Year Ten of the *French* Republick.

(L.S.) CORNWALLIS.
(L.S.) JOSEPH BONAPARTE.
(L.S.) J. NICOLAS DE AZARA.
(L.S.) R. J. SCHIMMELPENNINCK.

THE CAPE RESTORED TO THE DUTCH. [21 Feb. 1803.]

No. 10. *Proclamation.*—By Lieutenant-General FRANCIS DUNDAS.

WHEREAS by the 3rd Article of the Treaty of peace concluded at Amiens on the 27th March 1802 this Settlement is agreed to be restored to the Batavian Republic, which restoration will take place to-morrow, being Monday the 21st of February 1803, These are to signify to all the Inhabitants of this Colony of every description and to all others (not subjects of the United Kingdom of Great Britain and Ireland) who have taken the Oath of Allegiance to His Britannic Majesty that from

the day above mentioned they are absolved from the said Oath and return under the subjection of the Batavian Government. In order however to prevent confusion, the several Colleges and all the Civil Servants of this Government charged with the Police, administration of Justice, or of Finance, are at the instance of His Excellency the Commissary-General required for the present, and until further orders, to continue the functions of their several offices, and all the Inhabitants are warned to continue to obey the same.

Rec. V. 156.

SURRENDER OF CAPE TOWN TO THE BRITISH.
[10 Jan. 1806.]

No. 11. *Articles of Capitulation* proposed by the Lieut.-Colonel HIERONIMUS CASIMIRUS VON PROPHALOW, Commandant of the Town, Castle, and circumjacent Fortifications of the Cape of Good Hope, to the Major-General in the Service of His Britannic Majesty, Sir DAVID BAIRD, K.C., Commander-in-Chief of His Majesty's Forces, and Commodore Sir HOME POPHAM, K.M., Commander-in-Chief of His Britannic Majesty's Naval Forces in Table Bay.

ART. 1. The Capitulation being signed, the Cape Town, Castle, and circumjacent Fortifications shall be immediately surrendered to the Troops of His Britannic Majesty, viz. the Fortifications of the King's Block-House, Craig's Tower, and all the Batteries within that circuit, and on the other side of Camps Bay.

2. The Garrison shall, at the surrender, march out with all the Honours of War, and shall then lay down their Arms and become Prisoners of War; but such Officers as are natives of the Colony, or married with natives, or in possession of sufficient Landed Property to become regularly and *bona fide* domiciliated, shall be at liberty to continue here so long as they behave themselves as becometh good Subjects and Citizens, or proceed to Great Britain with regular Passports, and having previously passed their Parole not to serve until regularly exchanged.

3. All Officers, who according to the previous Article, must go to Europe, shall be provided with passages at the expense of His Britannic Majesty, and shall have leave to realize their Property previous to their departure, and receive the same Pay as they did in their own Service, till the day of their embarkation.

4. The French Subjects, who, belonging to the stranded

Frigate *l'Atalante*, and the stranded Privateer *le Napoleon*, were casually here, and are comprehended in the Capitulation, shall be treated on the same footing as the Garrison; but they must all be embarked for Europe, as well as every other French Subject in the Colony.

5. The Inhabitants of the Town, who have borne Arms, to be considered as belonging to the Town, and may immediately return to their former occupations. But the distinction between the Burghers and other Inhabitants is to remain the same, and subject to the same restrictions as under the Dutch Laws.

6. All *bona fide* private Property, whether belonging to the Civil or Military Servants of the Government, to the Burghers and Inhabitants, to Churches, Orphans, and other Public Institutions of that kind, shall remain free and untouched.

7. Public Property of every description, whether consisting of Treasure, or Naval or Military Stores, Buildings, Estates or Merchandise, belonging to the Batavian Republic or the Government of France, shall be faithfully delivered up, and proper Inventories given of them as soon as possible.

8. The Burghers and Inhabitants shall preserve all their Rights and Privileges which they have enjoyed hitherto; Public Worship, as at present in use, shall also be maintained without alteration.

9. The Paper Money actually in circulation shall continue current as heretofore, until the pleasure of His Britannic Majesty is known.

10. The Lands and Houses, the property of the Batavian Republic, which must be delivered up in consequence of the present Capitulation, shall remain as security for that part of the Paper Money which is not already secured by Mortgages upon the Estates of Individuals, by its having been lent to them. This is, however, to be without prejudice to the free use to be made of the said Lands and Houses for public purposes.

11. Prisoners of War comprehended in the present Capitulation shall not be pressed into His Britannic Majesty's Service, or engaged against their own free will and consent. With respect to other Persons, they are provided for in Article the 5th of this Capitulation.

12. The Inhabitants of Cape Town shall be exempted from having Troops quartered on them.

[Etc.]

Given . . . at Papendorp, near Fort Knokke.

Procls., etc., p. 1.

No. 12. SECOND SURRENDER OF THE CAPE TO THE BRITISH. [19 Jan. 1806.]

Articles of Capitulation proposed by Lieut.-General JANSSENS, Governor, and Commander-in-Chief of the Batavian Forces at the Cape of Good Hope, to Brigadier-General BERESFORD, duly authorised by Major-General Sir DAVID BAIRD, K.C., and Commodore Sir HOME POPHAM, K.M., Commanding the Military and Naval Forces of His Britannic Majesty.

ARTICLE 1. As soon as this Capitulation is signed the whole of the Settlement of the Cape of Good Hope, with all its Dependencies, and all the rights and privileges held and exercised by the Batavian Government, will be considered as surrendered by the Governor, Lieut.-General Janssens, to His Britannic Majesty.	ARTICLE 1. Agreed to.
ARTICLE 8. The inhabitants of the Colony who are comprehended in this Capitulation are to enjoy the same rights and privileges as have been granted to those in Cape Town, according to the Capitulation of the 10th instant.	ARTICLE 8. Agreed to—with the exception of not quartering Troops, the Country not having the same resources as the Town, and this right having been always an appendage to the Batavian Government.

18 Jan. 1806.
Ratified and confirmed, 19 Jan. 1806.
Procl., etc., p. 8.

No. 13. THE FARMING OUT OF LICENSES. [25 July 1807.]

Government Advertisement.—Notice is hereby given, that His Excellency the Governor and Commander-in-Chief has been pleased to appoint a Committee, consisting of the following gentlemen, with power to put up to Auction, and Farm out to the highest Bidder, the Wine, Brandy, and Foreign Liquor Licenses, for the ensuing Twelve Months, commencing from the 1st of September.

The Particulars of the Contract may be seen both at the Colonial Secretary's and Fiscal's Offices.

Names of the Committee—W. S. Van Ryneveld, Esq., His

Majesty's Fiscal; F. Dashwood, Esq., Receiver-General; C. Brand, Esq., Collector of Tythes; J. P. Baumgardt, Esq., Receiver-General of Land Revenue.

The Auction will be at the Burgher Senate House, on Friday the 14th of August next, at 9 o'clock in the Forenoon.

Castle of Good Hope, 25th July 1807.

By Command of His Excellency the Governor,

(Signed) A. BARNARD, *Secretary.*

Procls., etc., p. 62.

VAGRANCY AND CONTRACTS OF HIRE.

No. 14. *Proclamation.*—By His Excellency DU PRÉ, EARL OF CALEDON, etc. [1 Nov. 1809.]

WHEREAS it appears that the provisions made from time to time, for securing the fulfilling of Contracts of Hire between the Inhabitants of this Colony and Hottentots, are not sufficient for the intended purpose; and, whereas for the benefit of this Colony at large, it is necessary, that not only the Individuals of the Hottentot Nation, in the same manner as the other Inhabitants, should be subject to proper regularity in regard to their places of abode and occupations, but also that they should find an encouragement for preferring entering the service of the Inhabitants to leading an indolent life, by which they are rendered useless both for themselves and the community at large.

I therefore have thought proper to establish and ordain, and by these Presents do establish and ordain:

1. That all and every Hottentot in the different Districts of this Colony, in the same manner as all Inhabitants, shall have a fixed Place of Abode in some one of the Districts, and that an entry of the same shall be made in the Office of the Fiscal, or the respective Landdrosts, and that they shall not be allowed to change their place of abode from one District to another, without a Certificate from the Fiscal, or Landdrost of the District from which they remove; which Certificate they shall be bound to exhibit to the Fiscal, or Landdrost of the District where they intend to settle, for the purpose of being entered in their Office; while every Hottentot neglecting this order, shall be considered as a Vagabond, and be treated accordingly.

2. That every Inhabitant who engages a Hottentot in his service for the space of a month, or any longer period, shall be bound with the same to make his appearance before the Fiscal, or Landdrost, or the Field-Cornet of his District, and

there enter into, and sign *in triplo*, a proper written Contract, containing—

(*a*) The name of the Person who takes into service;
(*b*) The name of the Person who enters into service;
(*c*) The terms of the Contract;
(*d*) The amount of the Wages;
(*e*) The time of payment; and
(*f*) Such further Conditions as the Persons contracting shall agree upon.

Of which Contract, after having been duly signed *in triplo*, each of the Parties shall be furnished with one counterpart, and the third counterpart is to remain in the Office of the Fiscal, Landdrost, or Field-Cornet; while, for the sake of facilitating the execution of this measure as much as possible, the Fiscal and respective Landdrosts shall, upon applying for the same, be furnished on the part of Government, *gratis*, with the necessary printed Copies for their own Offices, and those of the Field-Cornets under them.

This being neglected, no Contract of Hire against a Hottentot shall stand good; and in case where it is proved that the Hottentot was ignorant of these present Regulations, upon the existence of a Hire Contract being satisfactorily proved, the engagement shall stand good in favour of the Hottentot, who shall be entitled to all the advantages secured by this Proclamation, to Hottentots entering into Contracts before the Fiscal, Landdrost, or Field-Cornet. [Etc.]

Procls., etc., p. 119.

SALE OF CHRISTIAN SLAVES.

No. 15. *Proclamation.*—By His Excellency Lieutenant-General Sir JOHN FRANCIS CRADOCK, etc. [9 Oct. 1812.]

WHEREAS by a Resolution taken by the Governor in Council at Batavia, dated the 10th of April 1770, it is enacted and prescribed, that Slaves who have been catechised and confirmed in the Christian Religion, shall not be sold: and whereas by experience it has appeared, that a Law intended for the promotion of Christianity and true Religion, has not been attended with the desired, but rather the contrary, effect:

His Excellency hereby enacts and ordains, that the said Clause of the Batavian Law of 1770 be repealed and of no effect; and it is hereby repealed and annulled, from the date of this Proclamation.

And that no Person may plead ignorance hereof, this shall be published and affixed as usual.

Procls., etc., p. 210.

CESSION OF THE CAPE TO GREAT BRITAIN.

No. 16. CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED NETHERLANDS. [13 Aug. 1814.]

In the Name of the Most Holy and Undivided Trinity,

The United Provinces of the Netherlands, under the favour of Divine Providence, having been restored to their Independence, and having been placed by the Loyalty of the Dutch people and the achievements of the Allied Powers, under the government of the Illustrious House of Orange: And His Britannick Majesty being desirous of entering into such arrangements with the Prince Sovereign of the United Netherlands, concerning the Colonies of the said United Netherlands, which have been conquered by His Majesty's arms during the late war, as may conduce to the prosperity of the said State, and may afford a lasting testimony of His Majesty's friendship and attachment to the family of Orange and to the Dutch nation: the said High Contracting Parties, equally animated by those sentiments of cordial good will and attachment to each other, have nominated for Their Plenipotentiaries: namely, His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable Robert Stewart, Viscount Castlereagh, . . .; and His Royal Highness the Prince of Orange-Nassau, Prince Sovereign of the United Netherlands, His Excellency Henry Fagel, . . .:—who, after having exchanged their full Powers, found in good and due form, have agreed to the following Articles:

ARTICLE I. His Britannic Majesty engages to restore to the Prince Sovereign of the United Netherlands, within the term which shall be hereafter fixed, the Colonies, Factories, and Establishments which were possessed by Holland at the commencement of the late war, viz. on the 1st of January 1803, in the Seas and on the Continents of America, Africa, and Asia; with the exception of the Cape of Good Hope and the settlements of Demerara, Essequibo, and Berbice, of which possessions the High Contracting Parties reserve to Themselves the right to dispose by a Supplementary Convention hereafter to be negociated according to Their mutual interests; and especially with reference to the provisions contained in the 6th and 9th Articles of the Treaty of Peace signed between His Britannick Majesty and His Most Christian Majesty on the 30th of May 1814.[1]

[1] ART. VI. "Holland, placed under the Sovereignty of the House of Orange, shall receive an increase of territory. The title and exercise of that Sovereignty shall not in any case belong to a Prince wearing or destined to

ARTICLE II. His Britannick Majesty agrees to cede in full Sovereignty the Island of Banca, in the Eastern Seas, to the Prince Sovereign of the Netherlands, in exchange for the Settlement of Cochin and its dependencies on the coast of Malabar, which is to remain in full Sovereignty to His Britannick Majesty.

ARTICLE III. The places and forts in the colonies and settlements, which by virtue of the two preceding articles are to be ceded and exchanged by the two High Contracting Parties, shall be given up in the state in which they may be at the moment of the signature of the present Convention.

ARTICLE IV. His Britannick Majesty guarantees to the subjects of His Royal Highness the Prince Sovereign of the United Netherlands, the same facilities, privileges, and protection, with respect to commerce and the security of their property and persons within the limits of the British Sovereignty on the Continent of India, as are now or shall be granted to the most favoured nations.

His Royal Highness the Prince Sovereign, on His part, having nothing more at heart than the perpetual duration of peace between the Crown of England and the United Netherlands, and wishing to do His utmost to avoid anything which might affect Their mutual good understanding, engages not to erect any fortifications in the Establishments which are to be restored to Him within the limits of the British Sovereignty upon the Continent of India, and only to place in those Establishments the number of troops necessary for the maintenance of the Police.

ARTICLE V. Those Colonies, Factories, and Establishments, which are to be ceded to His Royal Highness the Sovereign Prince of the United Netherlands by His Britannick Majesty, in the Seas or on the Continent of America, shall be given up within three months, and those which are beyond the Cape of Good Hope within the six months which follow the ratification of the present Convention.

ARTICLE VI. The High Contracting Parties, desirous to bury in entire oblivion the dissensions which have agitated Europe, declare and promise, that no individual, of whatever rank or condition he may be, in the countries restored and ceded by the present Treaty, shall be prosecuted, disturbed, or molested in his person or property, under any pretext whatever, either on account of his conduct or political opinions,

wear a foreign Crown." [The rest of the article refers to Germany, Switzerland, and Italy.]

ART. IX. "His Majesty the King of Sweden and Norway, in virtue of the Arrangements stipulated with the Allies, . . . consents that the Island of Guadalope be restored to His Most Christian Majesty, and gives up all rights He may have acquired over that Island."

his attachment either to any of the Contracting Parties, or to any Government which has ceased to exist, or for any other reason except for debts contracted towards individuals, or acts posterior to the date of the present Treaty.

ARTICLE VII. The native inhabitants and aliens, of whatever nation or condition they may be, in those countries which are to change Sovereigns, as well in virtue of the present Convention as of subsequent arrangements to which it may give rise, shall be allowed a period of six years, reckoning from the exchange of the Ratifications, for the purpose of disposing of their property, if they think fit, whether it be acquired before or during the late war, and of retiring to whatever country they may choose.

ARTICLE VIII. The Prince Sovereign of the United Netherlands, anxious to co-operate, in the most effectual manner, with His Majesty the King of the United Kingdom of Great Britain and Ireland, so as to bring about the total abolition of the trade in slaves on the coast of Africa, and having spontaneously issued a Decree on the 15th of June, 1814, wherein it is enjoined, that no ships or vessels whatever, destined for the trade in slaves, be cleared out or equipped in any of the harbours or places of His dominions, nor admitted to the forts or possessions on the coast of Guinea, and that no inhabitants of that country shall be sold or exposed as slaves,—does moreover hereby engage to prohibit all His subjects, in the most effectual manner and by the most solemn laws, from taking any share whatsoever in such human traffic.

ARTICLE IX. The present Convention shall be ratified, and the ratifications shall be duly exchanged at London within three weeks from the date hereof, or sooner if possible.

In witness whereof, we, the undersigned Plenipotentiaries, in virtue of our respective full powers, have signed the present Convention, and have affixed thereto the seals of our arms.

Done at London, this 13th day of August 1814.

(L.S.) CASTLEREAGH. (L.S.) H. FAGEL.

First Additional Article.

In order the better to provide for the Defence and Incorporation of the Belgick Provinces with Holland, and also to provide, in conformity to the Ninth Article of the Treaty of Paris, a suitable compensation for the Rights ceded by His Swedish Majesty under the said Article, which compensation it is understood, in the event of the above Reunion, Holland should be liable to furnish, in pursuance of the above stipulations; It is hereby agreed between the High Contracting Parties, that His Britannick Majesty shall take upon Himself, and engage to defray the following charges:

1st. The payment of One Million Sterling to Sweden in satisfaction of the claims aforesaid, and in pursuance of a Convention this day executed with His Swedish Majesty's Plenipotentiary to that effect, a Copy of which Convention is annexed to these Additional Articles.

2dly. The advance of Two Millions Sterling, to be applied, in concert with the Prince Sovereign of the Netherlands, and in aid of an equal Sum to be furnished by Him towards augmenting and improving the defences of the Low Countries.

3dly. To bear, equally with Holland, such further charges as may be agreed upon between the said High Contracting Parties and Their Allies, towards the final and satisfactory settlement of the Low Countries in union with Holland, and under the Dominion of the House of Orange, not exceeding, in the whole, the sum of Three Millions, to be defrayed by Great Britain.

In consideration, and in satisfaction of the above engagements, as taken by His Britannick Majesty, the Prince Sovereign of the Netherlands agrees to cede in full Sovereignty to His Britannick Majesty, the Cape of Good Hope, and the Settlements of Demerary, Essequibo, and Berbice, upon the condition nevertheless, that the subjects of the said Sovereign Prince, being proprietors in the said Colonies or Settlements, shall be at liberty (under such Regulations as may hereafter be agreed upon in a Supplementary Convention) to carry on trade between the said Settlements and the Territories in Europe of the said Sovereign Prince.

It is also agreed between the Two High Contracting Parties, that the ships of every kind belonging to Holland, shall have permission to resort freely to the Cape of Good Hope for the purposes of refreshment and repairs, without being liable to other charges than such as British subjects are required to pay.

Second Additional Article.

[The district of Bernagore, close to Calcutta, is ceded to the King of England for an annual payment to the Prince of Orange.]

Third Additional Article.

The present Additional Articles shall have the same force and validity as if they were inserted word for word in the Convention signed this day. They shall be ratified, and the Ratifications shall be exchanged at the same time and place.

In witness whereof, we the undersigned Plenipotentiaries have signed, and affixed to them the Seal of our Arms,

Done at London, this Thirteenth day of August, One Thousand Eight Hundred and Fourteen.

(L.S.) CASTLEREAGH. (L.S.) H. FAGEL.

Parl. Papers, Convention, 13th Aug. 1814, Presented to Parl., June 1815, p. 2.

THE ENGLISH LANGUAGE ESTABLISHED.

No. 17. *Proclamation.*—By His Excellency General the Right Hon. Lord CHARLES HENRY SOMERSET, etc. [5 July 1822.]

WHEREAS it has been deemed expedient, with a view to the prosperity of this Settlement, that the Language of the Parent Country should be more universally diffused, and that a period should be now fixed, at which the English Language shall be exclusively used in all Judicial and Official Acts, Proceedings, and Business, within the same. The long and familiar intercourse which has happily taken place between the good Inhabitants of this Colony, and the very numerous British-born Subjects who have established themselves, or have been settled here, has already greatly facilitated a measure which is likely still more closely to unite the loyal Subjects of their common Sovereign. The system which I had previously adopted, with a view to this exigence of employing British-born Subjects, conversant in both languages, in the parochial duties of the Reformed Religion, as established in this Colony, has likewise paved the way to the amelioration now contemplated.

It has pleased His Majesty most graciously to approve that measure, and to enable me to act more extensively upon it, not only by having commanded Clergymen of the Established Church of Scotland (whose religious tenets are precisely similar to those of the Reformed Church of this Country), who have received instruction in the Dutch Language, in Holland, to be sent hither to be placed in the vacant Churches, but by having authorised competent and respectable Instructors being employed at public expense, at every principal place throughout the Colony, for the purpose of facilitating the acquirement of the English Language to all classes of Society.

These Teachers having now arrived, the moment appears favourable for giving full effect to His Majesty's Commands; and I, therefore, hereby order and direct, by virtue of the Power and Authority in me vested, that the English Language be exclusively used in all Judicial Acts and Proceedings, either in the Supreme or Inferior Courts of this Colony, from the 1st day of January of the Year of our Lord, One Thousand Eight

Hundred and Twenty-seven; and that all Official Acts and Documents of the several Public Offices of this Government, (the Documents and Records of the Courts of Justice excepted) be drawn up and promulgated in the English Language, from and after the 1st day of January, One Thousand Eight Hundred and Twenty-five; and that all Documents prepared and issued from the Office of the Chief Secretary to this Government, be prepared in the English Language, from and after the 1st day of January next, in the Year of our Lord, One Thousand Eight Hundred and Twenty-three; from and after which periods, respectively, the English Language shall, in such Judicial and Official Acts and Proceedings, be exclusively adopted.

[Etc.]

Procls., etc., p. 558.

THE FIRST COUNCIL APPOINTED. [2 May 1825.]

No. 18. *Proclamation.*—By His Excellency the Right Hon. General Lord CHARLES HENRY SOMERSET, etc.

WHEREAS His Majesty has been graciously pleased, by Instructions issued under His Signet and Sign Manual, with the Advice of His Privy Council, bearing date at *Carlton House*, the Ninth Day of February, 1825, to order and direct that a Council shall be established in this Colony, to advise and assist in the Administration of the Government thereof:—And whereas His Majesty has signified His Pleasure that the said Council shall be composed as follows, viz.:

President, His Excellency the Governor or the Officer administering the Civil Government of the Colony for the time being.

Members, The Chief Justice; the Colonial Secretary; the Officer next in Command, for the time being, to the Commander of the Forces; Lieutenant-Colonel Bell; Walter Bentinck, Esq., Auditor-General; J. W. Stoll, Esq., Receiver-General.

I do hereby make known and publish the same for the Information of all the Inhabitants of this Colony, and of all others whom it may concern.

GOD SAVE THE KING.

C. T. Gazette, 7 May 1825.

[*Annexure.*]

The Members of Council, appointed by His Majesty, . . . having been summoned to attend at Government House on

Wednesday last, were there severally sworn in, by His Excellency the Governor, under a Royal Salute. His Majesty's Commissioners of Inquiry, and many other Persons of distinction, were present.

C. T. Gazette, Saturday, 7 May 1825.

THE PAPER CURRENCY. [6 June 1825.]

G. R.

(Signed) C. H. SOMERSET.

No. 2.[1]

No. 19. *Ordinance.*—Of His Excellency the GOVERNOR IN COUNCIL, for making British Silver Money a Legal Tender in Discharge of all Debts due to Individuals, and to Government, at the Rate of One Shilling and Six Pence for each Paper Rix-Dollar.

WHEREAS His Majesty's Government has determined to establish the British Currency as the Circulating Medium of all the Colonial Possessions of the Crown, and has further been pleased to Order and Direct that the British Silver Money shall be a Legal Tender in this Colony, in discharge of all Debts due to Individuals and to the Public, at the Rate of One Shilling and Six Pence for each Paper Rix-Dollar, and so in proportion for any greater or less Sum,

His Excellency the Governor in Council is pleased to Enact and Declare, that from and after the date of this Proclamation or Ordinance, British Silver Money shall be a Legal Tender in this Colony, in discharge of all Debts due to Individuals and to the Public, at the Rate of One Shilling and Six Pence for each Paper Rix-Dollar, and so in proportion for any greater or less sum,

His Excellency in Council has in consequence issued the necessary Instructions, that a Table or Scale shall be Printed forthwith, specifying the relative value of the Paper Rix-Dollar, and of all the lesser proportions thereof, with British Money, in order to regulate the Payment of the Established Government Duties, Fees, etc. until such time as New Schedules of Duties, etc. shall be made out.

The Governor in Council is further pleased to Order and Direct, that from and after the 31st of December next, all Heads of Departments in this Colony, and all other Civil Servants therein, shall render their Accounts in British Money; and that all Contracts entered into, or Purchases effected by the

[1] The Cape ordinances were numbered consecutively from 1825 till 1833. In 1834 and subsequent years there is a separate numbering for each year.

Civil Departments, for the Public Service, after that Date, shall also be made in British Money.

And that no Person may plead ignorance thereof, this will be published and affixed in the usual manner.

GOD SAVE THE KING.

Given at the Cape of Good Hope, this 6th Day of June 1825.

By Command of His Excellency the Governor,

(Signed) R. PLASKET, *Secretary to Government.*

By Order of the Council,

(Signed) P. G. BRINK, *Act. Clerk of the Council.*

——— *P.R.O., C.O.* 50/1.

EXTENSION OF HOTTENTOT LIBERTIES.

[17 July 1828.]

No. 50.

No. 20. *Ordinance.*—For Improving the Condition of Hottentots and other free Persons of colour at the Cape of Good Hope, and for Consolidating and Amending the Laws affecting those Persons.

WHEREAS certain Laws relating to and affecting the Hottentots and other free persons of colour, lawfully residing in this Colony, require to be consolidated, amended, or repealed, and certain obnoxious usages and customs, which are injurious to those persons, require to be declared illegal and discontinued: Be it therefore enacted, by His Honour the Lieutenant-Governor in Council, That from and after the passing of this Ordinance, the Proclamations of the 16th day of July 1787,—9th day of May 1803,—1st day of November 1809,—23rd day of April 1812,—9th day of July 1819,—and 23rd day of May 1823, shall be, and the same are hereby repealed: [Provided that nothing herein contained shall affect any contract or indenture entered into in virtue of the said proclamations.]

II. And whereas by usage and custom of this Colony, Hottentots and other free persons of colour have been subjected to certain restraints as to their residence, mode of life, and employment, and to certain compulsory services to which others of His Majesty's Subjects are not liable: Be it therefore enacted, that from and after the passing of this Ordinance, no Hottentot or other free Person of colour, lawfully residing in this Colony, shall be subject to any compulsory service to which other of His Majesty's Subjects therein are not liable, nor to any hindrance, molestation, fine, imprisonment or punishment of any kind whatsoever, under the pretence that such Person has been guilty of vagrancy or any other offence, unless after trial in due course of Law;—any custom or usage to the contrary in any wise notwithstanding.

III. And whereas doubts have arisen as to the competency of Hottentots and other free Persons of colour to purchase or possess Land in this Colony: Be it therefore enacted, [all transfers of land made to or by such Hottentot or other free person of colour are legal; and it is lawful for such persons born in the Colony or granted deeds of burghership to possess land.]

IV. And whereas it is expedient to protect ignorant and unwary Hottentots and other free Persons of colour as aforesaid from the effects of improvident Contracts for Service: Be it therefore enacted, [that it shall not be legal for any person to hire by written agreement any Hottentot or free person of colour for a longer period than one calendar month at a time, except as hereinafter provided.]

V. [If any person and a Hottentot or free person of colour desire to enter into an agreement for a longer period, such contract shall be made in writing in the presence of a Clerk or a Justice of the Peace, the period of such contract not to exceed 12 calendar months. Liquor or tobacco given to a servant, not to be regarded as wages. At the expiration of the period, no goods or cattle of a servant shall be detained except by sentence of a competent court.]

VI. [All such contracts to be made in triplicate, one copy to be given to each of the contracting parties, and one copy to be filed by the officer of justice.]

VII. [Procedure in cases of dispute as to whether wages have or have not been paid.]

VIII. [Contract with wife of Hottentot or free person of colour, to be executed by her; contract with children under 18, to be executed by parents. Provided always, that nothing therein contained shall give the employer of such parents any claim on the services of the said children or of any other children, beyond the period contracted for. No person shall have a claim to the service of any children merely on the ground that those children have been fed and clothed by such person or have been born during the period of their parents' service with such person. Procedure if this rule is disobeyed.]

IX. [On the death of a Hottentot or free person of colour, the contract with his wife and children shall become void within one month after such death.]

X. [A contracting Hottentot or free person of colour may keep his family on the premises of his employer without being forced to yield the service of children not contracted for.]

XI. [Any Hottentot or free person of colour being above the age of 18 may form a contract, as above directed.]

XII. [Any Hottentot or free person of colour may apprentice his or her children for 7 years or until the children shall reach

the age of 18 in the case of males and 16 in the case of females. Such indentures to be executed before an officer of justice, as directed above.]

XIII. [If a Hottentot or free person shall desert or leave behind by death his or her child, the employer shall forthwith notify an officer of justice, who shall arrange for the apprenticeship of such child.]

XIV. [Procedure in apprenticing children.]

XV. [Children of Hottentots, prize negroes and negresses, and other free persons of colour, to be indentured only with their parents' consent.]

XVI. [Apprentices indentured in virtue of previous proclamations may be removed by a competent court from the service of their employers, if they shall have been ill-treated, and may be returned to their parents.]

XVII. [Certain provisions applied also to foreigners entering the Colony from beyond the frontier. Deaths of such foreigners, and births of children in their families, to be notified by their employer.]

XVIII. [Field-cornets to make to civil commissioners half-yearly returns of births and deaths of Hottentots and free persons of colour.]

XIX. [Disputes between masters or mistresses and their servants to be tried by Resident Magistrates and in minor matters by Justices of the Peace.]

XX. [In such disputes Justices are empowered to summon before them any masters or mistresses concerned and any other witnesses.]

XXI. [Penalties that may be inflicted on servants by Resident Magistrates and Justices of the Peace in cases of ill behaviour.]

XXII. [In cases of ill usage by a master or mistress the servant may be discharged by a Magistrate or Justice and an order made for payment of wages. Servants may further recover damages for injury in any competent court.]

XXIII. [If wages are not paid as ordered, distress may be levied on the master or mistress neglecting to pay.]

XXIV. [If the servant is poor, summons and process may be issued free of charge. If a complaint by a servant against his master or mistress turns out " to be vexatious and untrue," then such servant may be punished by imprisonment with hard labour not exceeding 14 days.]

XXV. [Fines levied for breach of this ordinance shall be given, one-half to the informer and one-half to the Colonial Treasury.]

P.R.O., C.O. 52/4 (*C. of G. H. Govt. Gazette*, 25 July 1828).

ROMAN CATHOLIC RELIEF. [13 Jan. 1830.]

No. 68.

No. 21. *Ordinance.*—Of HIS EXCELLENCY the GOVERNOR in COUNCIL, For the Relief of His Majesty's Roman Catholic Subjects in this Colony.

WHEREAS an Act was passed in the 10th year of His Present Majesty's Reign, intituled An Act for the Relief of His Majesty's Roman Catholic Subjects; and whereas it is expedient, that such Enactments and Provisions of the said Act as are or may be applicable to this Colony, shall be extended thereto, so altered and modified as to meet the circumstances of the case: Be It Therefore Enacted . . . that after the commencement of this Ordinance, it shall and may be lawful for any of His Majesty's Subjects professing the Roman Catholic Religion, to hold, exercise, and enjoy all Civil and Military Offices and Places of Trust or Profit, under His Majesty; His Heirs or Successors; and to exercise any other Franchise or Civil Right, upon taking and subscribing, at the times and in the manner hereinafter mentioned, the following Oath, instead of the Oaths of Allegiance, Supremacy, and Abjuration, and instead of such other Oath or Oaths, as are or may be now by Law required to be taken for the purpose aforesaid, by any of His Majesty's Subjects professing the Roman Catholic Religion:

"I, *A. B.*, do sincerely promise and swear, that I will be faithful and bear true Allegiance to His Majesty, King George the Fourth and will defend Him to the utmost of my power against all Conspiracies and Attempts whatever which shall be made against his Person, Crown or Dignity; and I will do my utmost endeavour to disclose and make known to His Majesty, His Heirs and Successors, all Treasons and traitorous Conspiracies, which may be formed against Him or Them; And I do faithfully promise to maintain, support and defend, to the utmost of my power, the Succession of the Crown, which Succession, by an Act intituled—An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject, is and stands limited to the Princess Sophia, Electress of Hanover, and the Heirs of Her Body, being Protestants; hereby utterly renouncing and abjuring any Obedience or Allegiance unto any other Persons, claiming or pretending a Right to the Crown of the Realm of England: And I do further declare, that it is not an Article of my Faith, and that I do renounce, reject and abjure the opinion, that Princes excommunicated or deprived by the Pope, or any other Authority of the See of Rome, may be deposed or murdered by their Subjects, or by any Person whatsoever: And I do

declare, that I do not believe that the Pope of Rome, or any other Foreign Prince, Prelate, Person, State or Potentate, hath or ought to have any Temporal or Civil Jurisdiction, Power, Superiority or Pre-eminence, directly or indirectly, within the Realm of England. I do swear, that I will defend, to the utmost of my power, the Settlement of Property within the Realm of England, as established by the Laws: And I do hereby disclaim, disavow, and solemnly abjure any Intention to subvert the present Church Establishment, as settled by Law within the Realm of England: And I do solemnly swear, that I never will exercise any Privilege to which I am or may become entitled, to disturb or weaken the Protestant Religion, or Protestant Government in the United Kingdom, or any of the Territories thereunto belonging; And I do solemnly, in the Presence of God, profess, testify, and declare, that I do make this Declaration, and every part thereof, in the plain and ordinary Sense of the Words of this Oath, without any Evasion, Equivocation, or mental Reservation whatsoever. So Help Me God. . . ."

VII. And it is further enacted, That if any Jesuit, or Member of any such Religious Order, Community, or Society, as aforesaid, shall, after the commencement of this Ordinance, come into this Colony, he shall be deemed and taken to be guilty of an Offence; and being thereof lawfully convicted, shall be sentenced and ordered to be banished from the Colony for the term of his natural Life.

[Etc.] *P.R.O., C.O.* 50/1.

DEBATE IN THE HOUSE OF COMMONS.
[May 24, 1830.]

No. 22. PETITION FOR REPRESENTATIVE GOVERNMENT.

Lord *Milton* rose to present a Petition from British Settlers and others resident at the Cape of Good Hope, praying for a Representative Government. After calling the attention of the House to the importance of the question which the Petition raised, the respectability of the parties petitioning, and the obligation there lay upon the Legislature to protect the inhabitants of that colony from the effects of arbitrary power, he proceeded to say, that he considered the arbitrary imposition of taxes as one of the most objectionable exertions of arbitrary power. The Petition which he held in his hand was from British Settlers, who desired to carry with them to the colonies where they settled, the privileges which were the boast of their native country; and which they were accustomed to enjoy before they left it. In order to convey to the House

a just view of the feelings of these colonists, he would call attention to some of the sentiments expressed by the petitioners. They expressed themselves deeply grateful for the benefits already conferred upon them: for example, the Trial by Jury, and other privileges enjoyed by Britons—they thought they should best show their just appreciation of those benefits by seeking to attain the full blessings of the representative system—an object for which every class in that colony were equally anxious. In these sentiments he fully concurred, the more especially when he recollected how many British colonies of less importance already enjoyed the benefits of a representative system. When the inhabitants of the Cape of Good Hope turned their attention to the other side of the Atlantic, they perceived numerous colonies enjoying a representative system perfect in all its parts; it was, therefore, exceedingly natural that they should desire to possess that which others in a similar situation had long enjoyed. He did not call upon the House to institute any proceeding immediately for the purpose of complying with the prayer of the petitioners; but he hoped that it would, at some time, and not very distant time, take it into serious consideration; and that when the time came, whether soon or late, his Majesty's Government would do all in its power to prepare the inhabitants of that colony for these privileges which they so earnestly desired to obtain, and which it was as much for their advantage, as for that of the mother country, should be conferred upon them. It was indisputable that much misgovernment had prevailed at the Cape; whether that was owing altogether to the vices of our own colonial system, or to the institutions of the Dutch, who originally settled there, and their peculiar customs and usages, he would not undertake to say; or whether those evils might not arise from both causes, it was not for him to determine. Of this, however, he was perfectly assured, that the only cure was a representative government. There was one reflection, at all events, which naturally presented itself on an occasion like the present, and it was of a very gratifying character—namely, that English settlers, wherever they went, carried with them a love of English institutions.

Sir *George Murray* felt, that he should be wanting in respect to the noble Lord, and in that due attention to the colonists which he wished at all times to manifest towards them, if he did not state a few of the considerations which rendered the establishment of a representative system of government at the Cape of Good Hope extremely inexpedient. The Petition, the House would perceive, came from only a portion of the Colony, and from that portion, too, in which slavery did not exist—and that made a material difference—indeed there was

no country where slavery existed in which the expediency of introducing a representative legislature might not most seriously be doubted. The state of that colony, with reference to population and civilization, ought also to be taken into account. Its extent was nearly equal to that of the United Kingdom—about 600 miles long and 300 wide. The colonists amounted to only 119,966 souls, of whom the slaves amounted to 31,000, the free blacks to 35,000 and the whites to 53,996. A population so scattered, and so circumstanced, could but poorly exercise the privileges and powers of representation. Again, the whites were divided into Dutch and British, and if they had a Legislature, that body would be divided into two parties—and thus one of the most important benefits of representation would be counteracted. Then the House, he hoped, would not lose sight of the difficulty which Parliament had always experienced in its attempts to ameliorate the condition of the slaves wherever a colonial legislature existed, and until something satisfactory could be done for the slaves at the Cape of Good Hope, he should be unwilling to see a representative government established there. Something had been said in disparagement of the successive governments at the Cape of Good Hope; but he must take leave to say, that the Hottentots would not have been put upon the same footing with the colonists if the Cape had up to this time remained in the hands of the Dutch. Another objection to the introduction of the representative system was, that were it once established, all the power would speedily centre in the hands of those who resided in and near Cape Town, for those who resided at a distance would never think public affairs worth such a journey. Finally, he assured the House, that if he could persuade himself that a representative government would be at all likely to promote the true interests of the settlers at the Cape, he should be amongst the first to propose and recommend it; but he felt assured, that when hon. Members weighed the reasons which he had urged, they would see the expediency of not acceding to the prayer of the present Petition.

Mr. *Wilmot Horton* admitted, that the colonists of the Cape were not at the present moment prepared for representation, but he looked forward to the time when they would be capable of appreciating and exercising that privilege, and every other to which those who were accustomed to live under the British Constitution were accustomed. If the noble Lord were not [now?] to follow up the Petition by a motion to carry its prayer into effect he should oppose it, but he should be most happy to co-operate in the measures necessary to render the colonists fit to enjoy the advantages which they sought.

Mr. *Marryat* said, that the statements in the Petition presented by the noble Lord from the Cape, were equally applicable to all the colonies under the care of the Crown; a similar vicious system of government existed in all of them; and it was not possible to remove the grievances complained of but by granting the prayer of the Petition, and thus giving the colonists some control over their taxation and expenditure. These colonies were peculiarly situated. They had no independent local legislatures of their own, nor were they represented in the Imperial Parliament; but were under the immediate patronage and control of the Crown, by whom the taxes were levied and revenues appropriated. They presented, indeed, a practical example of the effects of taxation without representation. The colonists themselves had no control whatever over their expenditure, and though the produce of the taxes raised in the colony could not by law be appropriated to any but colonial purposes, yet that wise provision was evaded by the creation of new and useless offices, with high salaries attached, the payment of which was charged upon the colonial revenues. The revenues of the Crown colonies, he considered himself justified in asserting, were ample to provide for every necessary expense; but insufficient to provide also for the payment of extravagant salaries to governors, judges, and custom-house officers, which absorbed the whole amount. The current and necessary expenses had been, therefore, left to be provided for by votes of that House; and hence the complaints, that these colonies did not pay their own expenses. He contended that these colonies actually did pay their own proper and necessary expenses; but they could not pay in addition those heavy salaries, unnecessarily charged upon them. They were already taxed beyond all reasonable limits, not for their own wants, but for the benefit of those who were provided for at their expense. The colonial statements laid before the Finance Committee afforded a striking comparison of the relative taxation and expenditure of the two classes of colonists, viz.: those having independent local legislatures, and those under the paternal care of the Crown. Among the latter class the colony of Trinidad figured as a solitary example of an extravagant expenditure, sustained by enormous taxation. By the means of heavy imposts, levied exclusively upon the planter, that colony had hitherto not only paid all its expenses, but had saved from its surplus-revenue a sum of 60,000*l.* accumulated in the colonial treasury. The local authorities, however, (by whom he meant the placemen and pensioners of Trinidad, who are not planters, and did not personally feel the weight of taxation), were then projecting the erection of unnecessary public buildings and colonial palaces, which would

not only absorb this sum, but would entail for years to come a continuance of the present burthens upon the colony. The local authorities (who might be termed, to borrow an hon. Baronet's simile, the birds of prey who fed upon the vitals of the colony) were, he was informed, by means of intrigue and clamour, embarrassing and distracting the good intentions of the new Governor, trusting thereby to throw its affairs into such confusion as to oblige him to give up in despair the task of cleansing that Augean stable. The subject, however, he had reason to believe, was now under the consideration of the Secretary of State for the Colonies, who (he was happy to take this opportunity of stating) had, in every communication he had had the honour to hold with him upon this most important subject, evinced an earnest and anxious desire to investigate and correct the abuses of our colonial system. The task was Herculean, but he trusted, as there existed the desire, so the means of reformation would not be wanting. He should state, that during the short period in which the right hon. the member for Liverpool held the seals of the Colonial office, a ray of light beamed upon this unfortunate colony. The energetic measures of reformation which he had time only to commence, and which gave a promise of brighter days, ceased however with his removal from office. That event was much regretted by the colonists, who began to congratulate themselves in being under the control of a Minister who was both willing and able to carry his beneficial plans into effect. Should, however, the just expectations of the colonists be disappointed, and another season be suffered to elapse without any alleviation of their sufferings, he should feel it his duty, early in the ensuing Session, to bring their case under the consideration of the House.

Mr. *W. Smith* expressed his regret that the right hon. Secretary had not stated out of what materials a representative Government could be formed.

Mr. *Labouchere* complained of a practice which had existed for a long time in the Colonial Department, of sending out men of broken fortunes to occupy situations in the colonies, by which many serious evils arose to the colonies themselves. He thought that if the names of all persons appointed to colonial situations were inserted in the *Gazette* for some time before they went out, the evil might be avoided, because a means would thus be obtained of coming at a correct knowledge of the character of the parties, and of their fitness for the appointments. He did not mention this as arising out of any appointments which had been made since the right hon. and gallant officer came to the head of the Colonial Department, for, to do him justice, he believed that since then no persons had been

sent out who were not properly qualified for the situations they had to fill; but the subject was one to which he thought it necessary to call the right hon. and gallant officer's attention.

Mr. *Hume* did not think, that the right hon. and gallant officer had given very satisfactory reasons why the prayer of the Petition presented by the noble Lord should not be complied with. The complaint of the petitioners was, that British subjects, who had been accustomed to live under the free institutions of their own country, should, when they went out to settle in a colony, be at once brought under the dominion of arbitrary power. The nature of that government exposed it to great abuses, and the result was, that wherever it existed the improvement of the colony was greatly retarded. This had been as strongly illustrated in the Cape of Good Hope as in any colony he could name. The hon. and gallant officer had said, that he did not think this colony would be fit for a representative system of government whilst slavery existed; but he begged to ask him, when did he expect that slavery would cease there? When would that portion of the inhabitants be free? When would they be fit for a representative government? The right hon. Gentleman had, he thought, removed the period of freedom to an indefinite time. The right hon. and gallant officer's next objection was, he thought, as little satisfactory as the other,—namely, that of the distance to which the population was scattered. Now in the Canadas it was well known the inhabitants were scattered over a vast extent of country, and that was not found to be a serious objection to the establishment of a representative government. When the Floridas were ceded to the United States, they were at once incorporated into the national union, with a representative government, the distance at which many of the inhabitants were scattered from one another being no obstacle, because arrangements were easily made for meeting in the most central part of the state. It was at present a just cause of complaint, that England was taxed to pay for the expenditure of colonies which would willingly support themselves, if allowed to do so under a representative system; but instead of this, large sums were annually drawn from the pockets of the people here to meet expenses which we ought not to be called upon to pay. Give the colonies a representative system, and they would willingly pay their own expenses; though they would not pay such large salaries to governors and other officers as were now paid for them by the people of England. What was the situation of this very colony of the Cape of Good Hope? It had been for years left under a tyrannical government: he did not allude to any one individual in particular, but the nature of the government was arbitrary, and it could not

be denied that it had been grossly abused. But what had been the effect of the public opinion, to which the right hon. and gallant officer had alluded? Public opinion was, no doubt, very powerful here, through the Press, which sent forth what passed in that House to the world. Without such publicity, the House would be a nuisance to the country. As it was, he did not say it was of much benefit, but without the Press it would be a nuisance—a body which would have only to register the acts of Government; but even here, with all the advantages of publicity, how far had that gone to remove the evils which were complained of with respect to the Cape of Good Hope, during so many years in which Lord Charles Somerset was governor, and while Lord Bathurst was at the head of the Colonial Department? It was of little or no use in correcting the evil. He must say, that a mere reliance upon the expression of public opinion would not be a sufficient guarantee to the colonists against the evils of an arbitrary form of government, or supply the check which a representative system would have on the executive power. It was, he must also contend, a libel upon Englishmen to say, that they were rendered, by a difference of climate, unfit for a free constitution, or unworthy of enjoying it. He must again express his regret at hearing that there was to be no representative system in the colony until slavery was removed, and the population so condensed as that their representatives might come together without much inconvenience, which was putting off freedom for ever.

Dr. *Lushington* concurred in the general principle, that a representative form of government would be the best for the colonies, where circumstances permitted; but at the same time he fully agreed with the right hon. and gallant Secretary, that that system could not at present be adopted for the Cape of Good Hope without great danger to the best interests of that colony. He admitted that the government should be for the benefit of the many, and not for the few; but he did not think that that end would be obtained by a representative form of government at the Cape. If he could believe that it would have the effect of producing better regulations with respect to slaves—that it would improve the condition of the Hottentot population—he would most readily consent to it; but until he saw some disposition evinced by the colonies which had representative governments to improve the condition of the slaves,—until he saw in them a disposition in the strong to protect the weak,—he should object to any extension of a system, particularly where slave population existed, which he had reason to believe would not produce those effects. He thought therefore that it would be better to leave those

colonies which had not representative systems in the hands of Government, which was responsible for the measures which it adopted, rather than give them to those over whom we could have no efficient control. He was glad of that opportunity of expressing his gratitude to the right hon. and gallant officer for the measures which he had adopted for improving the condition of the Hottentot population. He had opportunities of knowing the situation in which that race were at the Cape, and also of knowing the effects which had been produced by the measures to which he alluded, and how greatly they had relieved that race from the gross oppression under which they had so long suffered. He would not, at the present moment, go into details upon the nature of that oppression, but were he to describe the miserable condition in which the Hottentot population were kept, he was sure the House could not hear it without indignation and abhorrence. He would repeat, then, that as long as he saw no measures adopted to put an end to slavery—as long as he saw an unwillingness in colonies with representative governments to improve the condition of their slave population—so long should he feel it his duty to oppose any extension of the representative system in our colonies, and the removal of the powers of government from the hands of those who were responsible to Parliament for its exercise.

Sir *G. Murray*, in explanation, begged to say, that though he had the good fortune of having had the opportunity of carrying the measures for improving the condition of the Hottentots, to which the hon. and learned Member had alluded, into full operation, yet it would not be doing justice to others if he did not state that those measures had been commenced under the government of Lord Caledon, and were afterwards acted upon to a considerable extent by General Bourke.

Mr. *Robinson* was decidedly of opinion, that free institutions ought to be given the settlers at the Cape, and to all other colonists, as soon as they were fit to receive them, and capable of appreciating their value. He by no means understood the noble Lord as recommending the immediate adoption of a measure such as the petitioners prayed for—all he urged upon the consideration of the House was, the necessity of speedily turning its attention to the subject, and taking such preliminary steps as might forward the object in view. There could be no doubt that flagrant abuses had existed in that colony, but they were not chargeable upon the present government—which was not to blame. There had existed a most scandalous carelessness with respect to colonial functionaries. Not long since a person was sent out as Chief-Justice of Newfoundland who contrived to swindle the people of that colony out of a very large sum; and an Attorney-General was sent

to the same place, who, though a person of better character, was totally unfit for the office.

The Petition read.

Lord *Milton*, in moving that it be printed, said he was sorry to learn that an improved system of government at the Cape was to be postponed until slavery should be abolished.

Sir *George Murray* wished the House to analyse the composition of society at the Cape. The number of females was 55,000, males 64,000 ; from those deduct the Slaves, the Dutch, the Hottentots, and the persons under age ; and the number of British colonists capable of exercising the elective franchise would be found exceedingly small.

Mr. *Hume* observed, that persons of Dutch descent, resident at the Cape, were as much British subjects as any men could be born in any colony.

Petition to be printed.

Hans. Parl. Debates, N.S., vol. 24, p. 1005.

THE EMANCIPATION OF THE SLAVES.

3 & 4 W. IV. cap. 73.

No. 23. *An Act* for the Abolition of Slavery throughout the *British* Colonies; for promoting the Industry of the manumitted Slaves; and for compensating the Persons hitherto entitled to the Services of such Slaves.

[On 28th August 1833 the bill for setting free the slaves in the British dominions received the royal assent. Slavery was to cease at a certain date,—in the Cape Colony the 1st of December 1834 was the date fixed. Slaves over six years of age had to pass through a transition stage, a period of apprenticeship. The British Parliament voted a sum of £20,000,000 to compensate the owners for the loss of their slaves throughout the Empire. There were 39,021 slaves in the Colony when the Act came into force, for which the owners were offered £3,041,290, 6s. 0d. A number of special Justices of the Peace were sent out from England and others were appointed in the country to assist in carrying out the Act. Vide *C. of G. Hope Ord.*, No. 1 of 1835.]

APPROPRIATION ORDINANCE FOR 1835. [3 Dec. 1834.]

No. 5, 1834.

No. 24. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof.

For applying a Sum not exceeding £40,590, 1s. 8½d., to the Contingent Services of the Year 1835.

WHEREAS the Contingent Expenditure required for the Service of the Year 1835, is estimated to amount to the Sum of £40,590, 1s. 8½d. : Be it therefore enacted by the Governor

of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that a Sum not exceeding £40,590, 1s. 8½d. be charged upon the Revenue for the Contingent Services of the Year 1835, and applied in the manner set forth in the Schedule hereunto annexed. [Schedule follows here.]

P.R.O., C.O. 50/1.

THE EASTERN DISTRICTS GOVERNMENT.

[19 Feb. 1836.]

No. 25. *Grant* for the Erection of the Eastern Districts of the Cape of Good Hope into a Distinct Government.

WILLIAM the Fourth by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, To all to whom these Presents shall come, Greeting.

WHEREAS by Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the twenty-third day of October in the fourth year of Our Reign We did constitute and appoint Our trusty and well-beloved Sir Benjamin D'Urban Knight Commander of the Most Honourable Military Order of the Bath, Major-General of Our Forces, to be Our Governor and Commander-in-Chief in and over Our Settlement of the Cape of Good Hope in South Africa with its Territories and Dependencies as also of the Castle and all Forts and Garrisons erected or established within the said Settlement, Territories and Dependencies for and during Our Pleasure;

And Whereas We have deemed it expedient that the Eastern Districts of Our said Settlement of the Cape of Good Hope should be erected for certain purposes into a distinct and separate Government to be administered in manner hereinafter mentioned;

Now therefore We do hereby declare Our Will to be and by these Presents do constitute and appoint that the Districts of Albany, Somerset, Uitenhage and Graaff Reynet within the said Settlement shall henceforth constitute and become a distinct and separate Government to be administered in Our name and on Our behalf by a Lieutenant-Governor to be by Us for that purpose appointed by Warrant under Our Royal Sign Manual and Signet, to be countersigned by one of Our Principal Secretaries of State and in the event of the death or absence or incapacity of any such Lieutenant-Governor as aforesaid then and in every such case Our Will and Pleasure is that the said Office shall be administered provisionally

by some person to be for that purpose appointed by the Governor and Commander-in-Chief or by the Officer for the time being administering the Government of the said Settlement of the Cape of Good Hope by a Commission to be for that purpose issued under the Public Seal of the said Settlement, which provisional appointment shall continue in force until Our Pleasure shall be known and no longer;

And We do hereby give and grant to such Lieutenant-Governor for the time being, or to such person as may be provisionally appointed to administer the Government of the said Districts of Albany, Somerset, Uitenhage and Graaff Reynet as aforesaid, all such powers and authorities within such Districts as by the said recited Letters Patent of the twenty-third day of October in the fourth year of Our Reign are granted to and vested in the said Sir Benjamin D'Urban as Governor and Commander-in-Chief in and over the said Settlement of the Cape of Good Hope; Subject nevertheless to all such Rules and Regulations as shall be made and established by such Instructions as hereinafter are mentioned for the practicable and convenient exercise of such power and authority;

Provided, nevertheless, and We do hereby declare Our Will and Pleasure to be that it shall be lawful for the said Sir Benjamin D'Urban or for the Officer for the time being administering the Government of the said Settlement from time to time as occasion shall require and as he shall be directed by such Instructions as aforesaid to repair to the said Eastern Districts and to assume the Government thereof in person; and during such his residence therein We do further declare Our Pleasure to be that all and every the powers and authorities in and by the said recited Letters Patent in him vested in and over the said Eastern Districts shall revive, and that during the same period or periods all and every the powers and authorities by those Presents vested in such Lieutenant-Governor shall be and are hereby suspended;

Provided also, and We do further declare Our Will and Pleasure to be that nothing herein contained shall extend or be construed to extend to take away, abridge or alter all or any of the powers and authorities in and by the said recited Letters Patent given to the said Sir Benjamin D'Urban to make, enact and ordain Laws and Ordinance for the Order, Peace and good Government of Our said Settlement of the Cape of Good Hope and its Dependencies with the advice and consent of the Legislative Council thereof, but that he, the said Sir Benjamin D'Urban or the Officer for the time being administering the Government of the said Settlement, shall have, hold, exercise and enjoy such power and authority as

aforesaid of making such Laws and Ordinances as aforesaid with the advice and consent of the said Legislative Council for any part of the said Settlement, the said districts of Albany, Somerset, Uitenhage [and] Graaff Reynet included, as fully and effectually as if these Presents had not been made;

Provided also, and We hereby declare Our Will and Pleasure to be that nothing herein contained shall extend or be construed to extend to take away, alter or abridge the jurisdiction, powers or authorities now by Law vested in the Supreme Court of the Colony of the Cape of Good Hope or in the Judges of the said Court or in the Courts of Circuit within the said Settlement or in any other Courts or Court of Justice therein or in the Judges of any such Courts or Court, but that all such Jurisdictions, powers and authorities shall continue to be exercised by such Courts and Judges respectively in as full and ample a manner as if these Presents had not been made.

And Our Will and Pleasure further is that in the execution of the powers hereby vested in the said Lieutenant-Governor for the time being or such person so provisionally appointed as aforesaid, he do in all respects conform to and obey all such Orders and instructions as shall for that purpose be addressed to him by Us in Our Privy Council or under Our Signet and Sign Manual or through one of Our Principal Secretaries of State;

And We do hereby revoke and annul so much and such parts of the said recited Letters Patent of the twenty-third day of October in the Fourth year of Our reign as may in anywise interfere with or prevent the execution of these Presents or any part thereof;

And We do hereby declare Our Will to be that for the purposes and within the meaning of these Presents the District of Beaufort shall not be considered as forming part of or as comprized within the District of Graaff Reynet.

In Witness, etc. Witness, etc. the nineteenth day of February [1836].

By Writ of Privy Seal.

P.R.O., Patent Roll, 6 W. IV. Part 12 (No. 16).

No. 26. PETITION FOR REPRESENTATIVE GOVERNMENT.

[The following is one of several petitions of its kind sent to England from time to time. The Governor recommended that the prayer should be granted, but Lord Stanley in his reply, though not meeting the petition by an irrevocable opposition, raised so many of the old

difficulties, adding one or two new ones of his own, that the matter was dropped for a while.]

[Dispatched to England, 20 Dec. 1841.]

To the Queen's Most Excellent Majesty in Council.

THE HUMBLE PETITION OF THE INHABITANTS OF CAPE TOWN AND ITS VICINITY.

Respectfully showeth, That the inhabitants of this colony, being descended from the people of Holland, or British born subjects who have more recently settled here since the Cape became an integral portion of the British Empire, entertain an hereditary sentiment of veneration for the free institutions of the distinguished nations from which they sprang.

That the inhabitants of this colony are about 180,000 in number; that all of them are free and equal in the eye of the law; and that the whole of the landed proprietors and capitalists reside on their estates or within the colony.

That the soil, climate and geographical position of this colony are so favourable to agriculture and commerce, that the unlimited extension of both may be confidently looked for, under the industry of a people enjoying political liberty, and permitted to direct the resources of the community in accordance with the nature of the place, and the character and habits of the population, which can only be understood and appreciated by the people themselves.

That since the colony became a dependency of the British Crown, the government of the Colony has been confided to the hands of a single individual appointed by the Crown, who has more recently been assisted, first by an Executive, and subsequently by an Executive and Legislative Council, all the members of both being appointed by the Crown, all the members of the first, and a majority of the members of the second, also holding offices of trust and emolument under the Governor.

That this form of government appears to your Majesty's petitioners inadequate, under any administration, however able and well disposed, to satisfy the social wants and desires of the people, or to accommodate the requisite institutions of society to the accumulating property, and increasing intelligence and enterprise of the community.

That the inhabitants of this colony have long been deeply impressed with this conviction, and are becoming every day more uneasy, under a system of government in which they have no share; although all that they possess, or expect for themselves or their posterity, is most materially affected by its proceedings.

That at the present period, they think it unnecessary to offer any arguments to your Majesty in favour of that form of government of which your Majesty is the head, or to point

out the inevitable disadvantages under which a government must labour which possesses no constitutional means of ascertaining public opinion, or to show that a people thus excluded from all influence on the action of government, must advance slowly, if at all, in the career of improvement. These facts have been decided by the concurrent testimony of all ages. They think it enough to represent to your Majesty, that in numbers, wealth and intelligence, they consider this community fully prepared to take their place in the rank of free countries, being assured that your Majesty only waited such an assurance, before confiding to them their due weight in the legislature of their own country.

Your Majesty's petitioners therefore humbly pray, that the government of this colony may as speedily as possible be assimilated in principle and form to that of Great Britain, and that it may be composed of a Governor appointed by the Crown, an Executive Council also appointed by the Crown, and a Legislative Assembly, composed of representatives freely elected by the people.

And your Majesty's petitioners will ever pray.

(Signed) H. WATSON.
J. B. EBDEN.
And 614 others.

Parl. Papers, C.O. 400, p. 2.

NOMINATION OF MINISTERS OF RELIGION BY THE CROWN. [1 Dec. 1845.]

No. 16, 1845.

No. 27. *Ordinance.*—Enacted by His Excellency the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof.

To amend the Ordinance No. 7, 1843, entitled an "Ordinance for repealing the Church Regulations of the 25th July 1804, and enacting others in their room and stead."

WHEREAS by the 5th section of the Ordinance No. 7, 1843, entituled "Ordinance for repealing the Church Regulations of the 25th July 1804, and enacting others in their room and stead,"—it is provided that the governor of this colony for the time being should have the right of filling up vacancies in the office of minister in congregations belonging to the Dutch Reformed Church in South Africa, of which congregations the minister for the time being receives a salary from the colonial government: and whereas it is expedient that the same right should be vested in Her Most Gracious Majesty the Queen, her heirs, and successors:—Be it therefore enacted by the governor of the Cape of Good Hope, with the advice and con-

sent of the Legislative Council thereof, that the 5th section of the said ordinance shall be repealed, and the same is hereby repealed accordingly.

2. And be it enacted, that in every case in which a vacancy shall occur in the office of minister of any congregation belonging to the said Dutch Reformed Church, of which congregation the minister for the time being receives a salary from the colonial government, her Majesty the Queen, her heirs, and successors shall have and possess, and shall exercise, in whatever manner she or they shall deem the best for the vacant congregation, the sole and unrestricted right of filling up such vacancy by the appointment of whatever individual she or they may select from amongst the number of such ministers as shall, by the rules and regulations of the said church for the time being, be competent to be appointed to supply vacancies in the ministry thereof.[1]

3. And be it enacted, that this Ordinance shall commence and take effect from and after the date of promulgation thereof. *P.R.O., C.O.* 50/2.

PUBLIC MEETINGS. [12 Dec. 1848.]

No. 15, 1848.

No. 28. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof. For amending the Law relative to Public Meetings.

WHEREAS by a Proclamation of His Excellency the then Governor, Lord Charles Henry Somerset, bearing date the 24th of May 1822, the said Governor saw fit to declare and enact that Public Meetings, convened without the sanction and authority of the Governor for the time being, or—when such sanction or authority cannot be conveniently obtained—without the sanction and authority of the Chief Local Magistrate, for the discussion of Public Measures or Political Subjects, were, and should be deemed to be, contrary to Law: And whereas there is nothing in the state and condition of this Colony which requires or justifies the continuance of a restraint, so inconvenient and invidious, upon the liberty of speech and freedom of discussion which Her Majesty vouchsafes to regard as the birth-right of Her Subjects; And whereas it is expedient to remove the said restraint:—Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that

[1] Act No. 5 of 1875 put an end to all government grants towards ministers' salaries.

the Proclamation aforesaid of the 24th May 1822, and every other law heretofore in force in this colony, whereby Public Meetings for the discussion of Public Measures and Political Subjects are declared or constituted illegal, unless held with or under the previous sanction and authority of the Governor of the Colony for the time being, or of some other Functionary or Magistrate, shall be repealed, and the same are hereby repealed accordingly.

2. And be it enacted, that this Ordinance shall commence and take effect from and after the promulgation thereof.

GOD SAVE THE QUEEN.

P.R.O., C.O. 50/2.

No. 29. THE CAPE OF GOOD HOPE CONSTITUTION ORDINANCE. [3 April 1852.]

[As amended and confirmed by Order in Council, dated 11 March 1853. Declared to take effect from 1 July 1853.]

1. WHEREAS Her Majesty did by certain Letters Patent, bearing date at Westminster, on the 23d day of May, in the thirteenth year of her reign, amongst other things, declare and ordain that there should be within the settlement of the Cape of Good Hope a Parliament, to consist of the Governor, a Legislative Council, and House of Assembly; and did declare, ordain, and appoint that the said Legislative Council (subject to the exception herein-after contained) and the said House of Assembly should consist and be constituted of such persons as should be elected in such manner and form, and for such terms and under such regulations, as should for that purpose be prescribed in any Ordinance or Ordinances to be for that purpose passed by the Governor of the said settlement, with the advice and consent of the then present Legislative Council thereof; provided, nevertheless, that it should be prescribed in and by such Ordinance or Ordinances that the Chief Justice of the Colony of the Cape of Good Hope for the time being should be, by virtue of his office, a member of the said Legislative Council, and should preside over the same; provided also, that every such Ordinance should contain a clause suspending the operation of the same until it should have been confirmed by Her Majesty, with the advice of her Privy Council; and Her said Majesty did thereby declare her will and pleasure that the said Governor, with the advice and consent of the Legislative Council and House of Assembly so to be constituted and elected in manner and form aforesaid, should have authority to make laws for the peace, welfare, and good government of the said settlement; and that in

the said Ordinance or Ordinances for constituting the said Legislative Council and House of Assembly, provisions should be made for enabling and empowering the said Governor to transmit to the said Legislative Council or House of Assembly, for their consideration, the drafts of any laws which it might appear to him desirable to introduce, and also any amendments for the consideration of the said Legislative Council and House of Assembly (if he should so think fit) in any bill presented to him for Her said Majesty's assent, and for prescribing the manner in which such drafts of laws and amendments should be dealt with by the said Legislative Council and House of Assembly, and for determining the regulations under which bills appropriating sums of money to the public service might be introduced in such Assembly, amended, and finally enacted; and for empowering the said Governor, from time to time, in the exercise of his discretion, to dissolve such Legislative Council and House of Assembly together, or such House of Assembly separately: And whereas Her said Majesty did thereby reserve to herself full power and authority, by an Order or Orders to be made by her in her Privy Council, to alter or amend such Ordinance or Ordinances as should be so passed as aforesaid, for the purpose of constituting and establishing the said Council and Assembly, and for such other purposes as are therein-before specified: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that the Legislative Council and House of Assembly for the said Colony shall be severally constituted and composed as is herein-after provided.

2. And be it enacted, That the said Legislative Council shall consist of the Chief Justice for the time being of the said Colony, and of fifteen elective members; and the said Chief Justice (when present) shall preside in the said Council: Provided that it shall be at all times lawful for the said Chief Justice (notwithstanding his so acting as President) to take part in any debate or discussion which may arise in the Legislative Council.

3. And be it enacted, That five members of the said Council shall form a quorum for the despatch of business; and all questions arising in the said Council shall be decided by a majority of votes of the members present other than the presiding member; but when the votes shall be equal the presiding member shall have the casting vote.

4. And be it enacted, That of the fifteen elective members of the said Council, eight shall be elected by the majority of the votes taken, as herein-after mentioned, of the voters in and for the following electoral divisions of the said Colony

collectively; that is to say, the divisions of the Cape (exclusive of the city of Cape Town), Stellenbosch, Caledon, Swellendam, George, Beaufort, the Paarl, Worcester, Malmesbury, Clanwilliam, and the city of Cape Town (including the municipality of Green Point), which divisions shall for the purposes of this Ordinance constitute and are herein-after collectively referred to as the western districts; and the remaining seven of the said members shall be elected by the majority of votes so taken of the voters in and for the following electoral divisions of the said Colony collectively; that is to say, the divisions of Albany (exclusive of the town of Graham's Town), Uitenhage, Port Elizabeth, Fort Beaufort, Victoria, Albert, Somerset, Graaff-Reinet, Cradock, Colesberg, and the town of Graham's Town, which divisions shall for the purposes of this Ordinance constitute and are herein-after collectively referred to as the eastern districts.

5.[1] And be it enacted, That of the fifteen members first elected of the said Council, eight, that is to say, four of those elected for the western districts, and four of those elected for the eastern districts respectively, shall vacate their seats at the expiration of five years from the date of such first election, and the members who shall so vacate their seats shall be those of the members elected for the western districts and eastern districts respectively who have been elected by fewest votes; and in case, by reason of any such members having been elected by an equal number of votes, it be uncertain which of such members should vacate his seat, the Governor shall cause such question to be determined by lot among such members elected by an equal number of votes, such lot to be drawn in the presence of one of the Judges of the Supreme Courts, and of such members or their agents authorized in writing (in case such member or agents think fit to attend); and the remaining seven members shall vacate their seats at the expiration of ten years from the date of such first election; and upon the vacating of their seats by such eight members and such seven members respectively, there shall be elected for the western districts and eastern districts respectively, a number of members of the said Council, equal to the number of members elected for such districts respectively, whose seats have become vacant, and the members to be so elected shall hold their seats for ten years from the date of their election, so that all the elective members of the said Council, save the aforesaid eight members of the fifteen first elected, shall hold their seats for the term of ten years, and so that there shall be an election of eight members, and an election of seven members alternately,

[1] Cf. the Parliamentary Representation Acts No. 19 of 1898 and 5 of 1904, not printed in this volume.

at the end of every five years for ever: Provided that every member vacating his seat under the provisions of this section shall be eligible to be re-elected, and provided that nothing herein contained shall prevent the Governor from at any time dissolving the said Council, under the power herein-after in that behalf contained.

6. And be it enacted, That the House of Assembly of the Cape of Good Hope shall consist of forty-six members, elected in the manner herein-after in that behalf provided, for a term of five years from the date of election, and that twelve members, exclusive of the member presiding in the said Assembly, shall form a quorum for the despatch of business; and that all questions which shall arise in the said Assembly shall be decided by a majority of votes of the members present, other than the presiding member; and that when the votes shall be equal, the presiding member shall have the casting vote.

7. And be it enacted, That the divisions of the Cape (exclusive of the city of Cape Town), Malmesbury, Stellenbosch, the Paarl, Clanwilliam, Swellendam, Caledon, George, Uitenhage, Port Elizabeth, Albany (exclusive of the town of Graham's Town), Fort Beaufort, Victoria, Albert, Somerset, Graff-Reinet, Cradock, Colesberg, Beaufort, and Worcester, and the city of Cape Town, and the town of Graham's Town, shall, respectively, be electoral divisions within the meaning and for the purposes of this Ordinance; provided that for the purposes of this Ordinance the division of the city of Cape Town shall include the municipality of Green Point. . . .

8. And be it enacted, That every male person, not subject to any of the legal incapacities herein-after mentioned, who shall have occupied within any electoral division for the space of twelve months next before the day on which any such registration of voters as is herein-after mentioned shall commence, any house, warehouse, shop, or other building, being either separately or jointly, with any land within such electoral division, occupied therewith, of the value of twenty-five [1] pounds sterling; or who shall have been, for the space of twelve months aforesaid, really and *bona fide* in the receipt of salary or wages at and after the rate of not less than fifty pounds by the year; or who having been in the receipt for the space aforesaid, of salary or wages at and after the rate of not less than twenty-five pounds by the year, shall, in addition to such salary or wages, have been supplied with board and lodging,[2] shall be entitled to be registered as a voter, and to vote at elections of members of the said Council, and of members of the said House of Assembly. . . .

[1] Cf. Act No. 9 of 1892, Cl. 4, Sect. (*a*) below.
[2] Cf. Act No. 9 of 1892, Cl. 4, Sect. (*b*) below.

9. [Certain joint occupiers entitled to be registered.]

10. And be it enacted, That no person shall be entitled to be registered as a voter, or to vote at any election of members of the Legislative Council or Assembly of the Cape of Good Hope, unless he be of the full age of twenty-one years, and either a natural born subject of Her Majesty the Queen, or a subject of Her Majesty the Queen who, though not natural born, was, before and on the eighteenth of January one thousand eight hundred and six, a subject of the Batavian Government, resident in this colony, and who, from thence hitherto, has resided or maintained a domicile in the said Colony, or unless, if of alien birth, and not such a subject as last aforesaid, he shall have been naturalized by some Act of the Parliament of Great Britain and Ireland, or of the Legislature of the Cape of Good Hope,[1] or shall before the commencement and taking effect of this Ordinance have obtained a deed of burghership, and that no person shall be entitled to be registered as a voter or to vote who is of unsound mind, or who shall have been convicted of and sentenced for treason, murder, rape, theft, fraud, perjury, or forgery, unless he shall have received a free pardon.

11. [Register of voters in each electoral division to be formed.]

12. [Lists of voters for the several field-cornetcies, how to be framed.]

13–32. [Manner of making out voters' lists.]

33. And be it enacted, That no person shall be qualified to be elected a member of the said Council who would, under and by virtue of any of the provisions of this Ordinance, be incapacitated to be registered as a voter as herein provided, or who shall be under the age of thirty years; or who shall not be the owner, for his own use and benefit, of immoveable property situate within the districts of this Colony, western or eastern, as the case may be, for which he shall be elected, of the value of two thousand pounds of sterling money, over and above all special conventional mortgages affecting the same; or who shall not, being the owner of such property to such value, but under mortgage, be at the same time possessed of property moveable and immoveable within the said Colony to the value of not less than four thousand pounds of sterling money, over and above his just debts: Provided always, that every married man shall, for the purpose of this and every other section of the present Ordinance which regards the ownership or occupation of property, be deemed and taken to own or occupy (as the case may be) the whole of the property belonging

[1] By Act No. 47 of 1905 all ex-burghers of the S. A. Republic and the O. F. State were allowed to vote if they possessed the other necessary qualifications.

to his wife: Provided also, that no person holding any office of profit under Her Majesty the Queen within the said Colony, and no uncertificated insolvent, and no alien who shall have been registered as a voter by virtue merely of having obtained a deed of burghership, shall be eligible to be elected a member of the said Council.

34–37. [Manner of nominating candidates for the Legislative Council.]

38. And be it enacted, That all persons whose names shall be inserted in the list of voters for any electoral division, but no other persons, shall be entitled to vote in and for such electoral division for members of the Legislative Council. . . .

39–45. [Manner of conducting the poll and publishing the results in the case of the Legislative Council.]

46. And be it enacted, That for the purpose of constituting the House of Assembly of the Cape of Good Hope it shall and may be lawful for the voters in or for each of the twenty-two electoral divisions herein-before mentioned, except the city of Cape Town, to elect two qualified men, and no more, to be the representatives of such electoral division, and for the voters in or for the electoral division of Cape Town to elect four qualified members, and that every voter in every electoral division shall be entitled to give at each election as many votes as there are members of Assembly to be elected at such election: Provided always, that in no electoral division, except Cape Town, shall any voter be capable of giving to any one candidate more votes than one; provided also, that in the electoral division of Cape Town every voter shall be entitled, at his discretion, to give at any such election one vote to each of any number of the candidates, not exceeding the whole number of members to be elected, or to distribute, in such proportions as he shall think fit, the whole number of votes which he is entitled to give among any lesser number of candidates, or to give all his votes to one candidate.[1]

47. And be it enacted, That any person (except as is next herein-after excepted) who shall be qualified and entitled to be registered as a voter in and for any electoral division within the said Colony shall be qualified and entitled to be elected a member of the Legislative Assembly for any electoral division within the said Colony: Provided also, that no person holding any office of profit under Her Majesty the Queen within the said Colony, and no uncertificated insolvent, and no alien who shall have been registered as a voter by virtue merely of having obtained a deed of burghership, shall be eligible to be elected a member of the said Legislative Assembly.

[1] Cumulative voting in the Cape Town electoral division was abolished by Act No. 16 of 1893.

48. [Nomination of candidates for the Legislative Assembly.]

49–59. [Time, place, and manner of voting for members of the Assembly.]

60. And be it enacted, That so soon as every electoral district in the Colony shall have either elected or failed in electing its representatives in the House of Assembly, it shall and may be lawful for the Governor of the Cape of Good Hope to summon, by proclamation, the Legislative Council and the House of Assembly of the Cape of Good Hope to meet at such place within the said Colony, and at such time as the said Governor shall think fit: Provided always, that the said Council and Assembly shall be summoned to meet at some period not later than twelve months next after the promulgation of this Ordinance in the said colony.

61–62. [Oath or affirmation to be made by all members of the two Chambers.]

63. And be it enacted, That the House of Assembly shall, at its first meeting, and before proceeding to the despatch of any other business, elect one member thereof to be and be called the Speaker of such House. . . .

64. [Declaration of property qualification to be made by each member of the Council.]

65–66. [Property qualification must be possessed during the whole time that a member of Council retains his seat.]

67. [Grounds of disqualification may be brought by petition before a committee of the Council.]

68. [Similar procedure with regard to alleged disqualification of members of Assembly.]

69. And be it enacted, That it shall be lawful for any member of the Legislative Council of the Cape of Good Hope, by writing under his hand, addressed to the President of the said Council, to resign his seat in the said Council, and upon such resignation the seat of such member shall become vacant.

70. And be it enacted, That it shall be lawful for any member of the House of Assembly of the Cape of Good Hope, by writing under his hand, addressed to the Speaker of the said Assembly, to resign his seat in the said Assembly, and upon such resignation the seat of such member shall become vacant.

71. And be it enacted, That if any legislative councillor of the Colony of the Cape of Good Hope, or any member of the House of Assembly thereof, shall for one whole session of the Parliament of the said Colony fail to give his attendance in the House of Assembly to which he belongs, without the permission of such house, or shall take any oath or make any

declaration of acknowledgment of allegiance, obedience, or adherence to any foreign prince or power, or shall do, concur in, or adopt any act whereby he may become a subject or citizen of any foreign state or power, or if his estate shall be sequestrated as insolvent, the seat of such councillor or member of the Assembly shall thereby become vacant.

72. And be it enacted, That no member of the Legislative Council shall be eligible for a seat in the House of Assembly; and that if any member of the House of Assembly shall be elected a member of the Legislative Council, the former seat of such member shall, *ipso facto*, become vacant.

73. [Election, how to take place on vacancies.]

74. And be it enacted, That it shall and may be lawful for the Governor of the Cape of Good Hope, whenever he shall see fit so to do, to prorogue, either by speech or proclamation published in the Government Gazette, the Legislative Council and the House of Assembly of the said colony, and also, either by speech or by any such proclamation, to dissolve the said Council and the said House of Assembly, or dissolve the said House of Assembly without dissolving the said Council.

75. [Arrangements for a general election to be as described above.]

76. [Provision for a biennial registration of voters.]

77. And be it enacted, That there shall be a session of the Parliament of the Cape of Good Hope once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the said Parliament in one session and its first sitting at next session.

78. [Standing rules and orders to be framed by each Chamber for itself.]

79. And be it enacted, That it shall be lawful for the Colonial Secretary, the Attorney-General, the Treasurer, and the Auditor of the said Colony to sit and take part in any debate or discussion which may arise in either the Legislative Council or the House of Assembly, subject nevertheless to any such standing rules and orders as are herein-before mentioned; but that it shall not be lawful for them to vote on any proceeding in either house.

80. And be it enacted, That it shall not be lawful for the House of Assembly or the Legislative Council to pass, or for the Governor to assent to, any bill appropriating to the public service any sum of money from or out of Her Majesty's revenue within the said Colony, unless the said Governor, on Her Majesty's behalf, shall first have recommended to the House of Assembly to make provision for the specific public service towards which such money is to be appropriated; and that no part of Her Majesty's revenue within the said Colony shall

be issued except under the authority given by the Governor of the said Colony directed to the public treasurer thereof.

81. And be it enacted, That it shall and may be lawful for the Governor of the Cape of Good Hope to transmit, by message, to either the Legislative Council or the House of Assembly, for their consideration, the drafts of any laws which it may appear to him desirable to introduce, and all such drafts shall be taken into consideration in such convenient manner as shall in and by the rules and orders aforesaid be in that behalf provided: Provided always, that the said Governor shall not transmit to the Legislative Council the draft of any law which ought, under and in virtue of the provisions of this Ordinance, to originate in or be introduced into the House of Assembly.

82. And be it enacted, That whenever any bill which has been passed by the Legislative Council and Assembly of the Colony of the Cape of Good Hope shall be presented for Her Majesty's assent to the Governor of the said Colony, such Governor shall declare, according to his discretion, but subject nevertheless to the provisions contained in this Ordinance, and to such instructions as may from time to time be given in that behalf by Her Majesty, Her heirs and successors, that he assents to such bill in Her Majesty's name, or that he refuses his assent to such bill, or that he reserves such bill for the signification of Her Majesty's pleasure thereon: Provided always, that it shall and may be lawful for the Governor, before declaring his pleasure in regard to any bill which shall have been so presented to him, to make such amendments in such bill as he shall think needful or expedient, and by message to return such bill, with such amendments, to the Legislative Council or the House of Assembly, as he shall think more fitting; and the consideration of such amendments by the said Council and Assembly respectively shall take place in such convenient manner as shall, in and by the rules and orders aforesaid, be in that behalf provided.

83. And be it enacted, That whenever any bill which shall have been presented for Her Majesty's assent to the Governor of the said Colony of the Cape of Good Hope shall, by such Governor, have been assented to in Her Majesty's name, such Governor shall, by the first convenient opportunity, transmit to one of Her Majesty's Principal Secretaries of State an authentic copy of the act so assented to; and that it shall be lawful, at any time within two years after such bill shall have been received by such Secretary of State, for Her Majesty, by Order in Council, to declare Her disallowance of such act, and that such disallowance, together with a certificate under the hand and seal of such Secretary of State, certifying the day on which such bill was received as aforesaid, being signified by

such Governor to the Legislative Council and Assembly of the Cape of Good Hope, by speech or message to the Legislative Council and Assembly of the said Colony, or by proclamation, shall make void and annul the same from and after the date of such signification.

84. And be it enacted, That no bill which shall be reserved for the signification of Her Majesty's pleasure thereon shall have any force or authority within the colony of the Cape of Good Hope until the Governor of the said Colony shall signify, either by speech or message to the Legislative Council or Assembly of the said Colony, or by proclamation, that such bill has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same; and that an entry shall be made in the journals of the said Legislative Council of every such speech, message, or proclamation, and a duplicate thereof, duly attested, shall be delivered to the proper officer, to be kept amongst the records of the said Colony; and that no bill which shall be so reserved as aforesaid shall have any force or authority in the said Colony unless Her Majesty's assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such bill shall have been presented for Her Majesty's assent to the Governor as aforesaid.

85. And be it enacted, That the Governor of the Cape of Good Hope shall cause every act of the Parliament of the Cape of Good Hope which he shall have assented to in Her Majesty's name to be printed in the *Government Gazette*, for general information, and such publication by such Governor of any act of the said Parliament shall be deemed to be in law the promulgation of the same.

86. [Copies of acts of Parliament to be enrolled.]

87. [Certificates of disallowance of acts of Parliament to be enrolled.]

88. And be it enacted, in regard to all bills relative to the granting of supplies to Her Majesty, or the imposition of any impost, rate, or pecuniary burden upon the inhabitants, and which bills shall be of such a nature that if bills similar to them should be proposed to the Imperial Parliament of Great Britain and Ireland such bills would, by the law and custom of Parliament, be required to originate in the House of Commons, That all such bills shall originate in, or be by the Governor of the Cape of Good Hope introduced into the House of Assembly of the said Colony: Provided that the Legislative Council of the said colony, and the Governor thereof, shall respectively have full power and authority to make in all such bills such amendments as the said Council and the said Governor shall respectively regard as needful or expedient;

and the said Council and the said Governor may respectively return such bills, so amended, to the House of Assembly or the Legislative Council.

89. And be it enacted, That all debates and discussions in the Legislative Council and House of Assembly respectively shall be conducted in the English language, and that all journals, entries, minutes, and proceedings of the said Council and Assembly be made and recorded in the same language.

90. And be it enacted, That each member of the Legislative Council and each member of the House of Assembly whose ordinary place of residence shall be situate at a greater distance than ten miles from the place or places in which the said Council and Assembly shall respectively assemble shall be entitled to be paid from the public treasury of the said Colony the sum of one pound sterling per day, for every day during which such member shall be engaged in travelling to, and returning from, and attending at, any session of Parliament of the said Colony: Provided always, that such payment shall in no case be made for more than fifty days in any one calendar year; and that every such member shall also be entitled to be paid a further sum of one shilling for every mile which he shall necessarily travel in coming to and returning from any such session: Provided always, that no part of such sums shall become payable to any member in any session until after an act providing funds for the public service of the current year shall have been passed by the said Council and Assembly, and assented to by the Governor.

91. [Interpretation of terms, Natal not included in the Cape Colony.]

92. And be it enacted, That this Ordinance shall commence and take effect within the Colony of the Cape of Good Hope from and after such date as Her Majesty shall, by the advice of Her Privy Council, fix for that purpose.

Parl. Papers, Copies of Two Cape Ords., presented June 14, 1853, p. 3.

No. 30. RESERVED CIVIL LIST ORDINANCE.

[Ord. No. 3 of 1852.[1]]

WHEREAS Her Majesty did, by certain Letters Patent, bearing date at Westminster on the twenty-third day of May in the thirteenth year of her reign, amongst other things, declare and ordain that there should be within the settlement

[1] Confirmed by Order in Council, 11 March 1853; repealed by Act No. 15 of 1896.

of the Cape of Good Hope a Parliament, to consist of the Governor, a Legislative Council, and House of Assembly: And whereas by an Ordinance intituled "Ordinance enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, for constituting a Parliament for the said Colony," provision has been made for constituting a Legislative Council and House of Assembly for the said Colony, and for defining the powers of the same: And whereas it is expedient that provision should be made for defraying certain expenses out of the revenue of the said Colony:

1. Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, That the said Governor shall be authorized to pay out of the revenue of the said Colony all the costs, charges, and expenses incident to the collection, management, and receipt thereof: Provided always, that full and particular accounts of all such disbursements shall from time to time be laid before the Parliament of the said Colony.

2. And be it enacted, That, until the Parliament of the said Colony shall otherwise direct, there shall be payable every year to Her Majesty, Her heirs and successors, out of the said revenue fund, the sum of one hundred and six thousand and ninety pounds, for defraying the expenses of the several services and purposes in the Schedules (marked A, B, C, and D) annexed to this Ordinance; the said sum to be issued by the Treasurer of the said Colony, in discharge of such warrant or warrants as shall be from time to time directed to him under the hand and seal of the Governor.

3. And be it enacted, That in construing this Ordinance the word "Governor" shall mean any officer for the time being administering the government of the Cape of Good Hope.

4. And be it enacted, That this Ordinance shall commence and take effect within the Colony of the Cape of Good Hope from and after such date as Her Majesty shall, by the advice of Her Privy Council, fix for that purpose.

SCHEDULES REFERRED TO IN THE FOREGOING ORDINANCE.

SCHEDULE A.

	£	s.	d.	£	s.	d.
The Governor and Private Secretary .	5,300	0	0			
The Lieutenant-Governor, Secretary, Messenger, and House-rent . .	2,200	0	0			
The Clerk of the Executive Council .	520	0	0			
The Colonial Secretary and his department	5,500	0	0			
The Treasurer-General do. .	1,890	0	0			
The Auditor-General do. .	1,650	0	0			
The Registrar of Deeds do. .	1,000	0	0			
The Surveyor-General do. .	2,080	0	0			
The Civil Engineer do. .	2,250	0	0			
The Post-Office department . .	2,330	0	0			
The Keeper of the Public Buildings .	235	0	0			
The Agent-General in London . .	210	0	0			
The Secretary and Clerks of the Central Road Board	1,140	0	0			
The Supreme Court . . .	7,935	0	0			
The High Sheriff . . .	1,250	0	0			
The Attorney-General . . .	1,670	0	0			
Divisional Courts . . .	16,335	0	0			
Education establishments . .	4,100	0	0			
Medical departments	1,895	0	0			
Police, Prison, and Gaols . .	1,540	0	0			
				61,030	0	0

SCHEDULE B.

Pensions	15,000	0	0

SCHEDULE C.[1]

Public Worship	16,060	0	0

SCHEDULE D.

Border department (Aborigines) . . .	14,000	0	0
	£106,090	0	0

Ibid. p. 21.

FREEDOM OF SPEECH IN PARLIAMENT.

I assent to this Bill in Her Majesty's name.

(Signed). C. H. DARLING, *Lt.-Governor*,
19 *September* 1854.

No. 1 of 1854.

No. 31. *An Act* to Secure Freedom of Speech and Debates, or Proceedings in Parliament, and to give summary Protection to Persons employed in the Publication of Parliamentary Papers.

WHEREAS it is essential to the due and effectual exercise and discharge of the functions and duties of Parliament, and

[1] Repealed by Act No. 5 of 1875.

to the promotion of wise Legislation, that the Freedom of Speech and Debates, or Proceedings in Parliament, should not be impeached or questioned in any court or place out of Parliament, and that no obstructions or impediments should exist to the Publication of such Reports, Papers, Votes, or Proceedings of either House of Parliament as such House of Parliament may deem fit or necessary to be published: And whereas it is fit that such Freedom should be secured by Law, and that all such obstructions or impediments, should any arise, may be summarily removed: Be it therefore enacted by the Governor, by and with the advice and consent of the Legislative Council and the House of Assembly, that there shall be Freedom of Speech and Debates, or Proceedings in Parliament, and that such Freedom of Speech and Debates, or Proceedings in Parliament, shall not be liable to be impeached or questioned in any court or place out of Parliament.

II. And be it enacted, that it shall and may be lawful for any person or persons who may be a defendant or defendants in any civil or criminal proceeding, commenced or prosecuted in any manner soever, for or in respect of the publication of any Report, Paper, Votes, or Proceedings, by such person or persons, by or under the authority of either House of Parliament, to bring before the court in which such proceeding shall be commenced or prosecuted, or before any judge thereof (should the proceedings be in the Supreme or any Circuit Court), first giving twenty-four hours' notice of his intention so to do to the plaintiff or prosecutor in such proceeding, a certificate under the hand of the President of the Legislative Council for the time being, or of the Clerk of the Legislative Council, or of the Speaker of the House of Assembly, or of the Clerk of the same House, stating that the Report, Paper, Votes, or Proceedings, as the case may be, in respect whereof such civil or criminal proceeding shall have been commenced or prosecuted, was or were published by such person or persons, or by his or their servant or servants, by order or under the authority of the Legislative Council, or the House of Assembly, as the case may be, together with an affidavit verifying such certificate; and such court or judge shall thereupon immediately stay any such civil or criminal proceeding; and the same and every writ or process issued thereon shall be, and the same shall be deemed and taken to be, finally put an end to, determined, and superseded, by virtue of this Act.

III. Provided always and it is hereby expressly declared and enacted, that nothing herein contained shall be deemed, or taken, or held, or construed, directly or indirectly, by implication or otherwise, to affect the rights and privileges of Parliament, in any manner whatsoever.

IV. That in construing this Act, the word "Governor" shall mean any Officer for the time being lawfully administering the Government of this Colony.

Given at Government House, this Nineteenth September 1854.

By Command of His Honour the Lieut.-Governor,
(Signed) RAWSON W. RAWSON,
Colonial Secretary.

Certified correct as passed by the Legislative Council.
(Signed) JNO. WYLDE,
President.

Certified correct as passed by the House of Assembly.
(Signed) C. J. BRAND,
Speaker.
1st Sepiember 1854.

P.R.O., C.O. 50/3.

INCORPORATION OF BRITISH KAFFRARIA.
No. 3 of 1865. [10 Oct. 1865.]

No. 32. *Act* to make provision for the Incorporation of British Kaffraria with the Colony of the Cape of Good Hope, and to increase the number of the Members of both Houses of Parliament of the said Colony.

[Kaffraria became a British Crown Colony in 1847, the government offices being situated at King William's Town.]

WHEREAS by the third section of the Imperial Act, 28th of Her Majesty, chapter 5, the Parliament of the Cape of Good Hope is empowered to make provision for the incorporation of the territory of British Kaffraria with the Cape of Good Hope, and it is enacted that when and as soon as the Governor of the Cape of Good Hope, as Governor of British Kaffraria, assents, in manner and form as in the said section is set forth, to the provision so made, then, and from and after the date of such assent, British Kaffraria shall become incorporated with the Cape of Good Hope, on the terms of such provision, for all purposes whatever, as if British Kaffraria had always formed part of the Cape of Good Hope: And whereas it is expedient that such provision as aforesaid should be made, and that the same should take effect when and as soon as the Governor of British Kaffraria shall, by virtue of his powers as such Governor, and by laws and ordinances by him made, have divided British Kaffraria into two parts, to form, after such incorporation as aforesaid, electoral divisions of the Cape of Good Hope, each of which shall be entitled to send two members to the House of Assembly of the Cape of Good Hope, and shall have defined and named such electoral divisions,

and shall have effected a registration of voters entitled to vote according to the qualification of voters fixed and established by the fourth section of the Constitution Ordinance of the Cape of Good Hope, and shall have declared the qualification of persons capable of being elected to be, after such incorporation as aforesaid, members of the House of Assembly aforesaid,—such qualification to be that described in the forty-seventh section of the Constitution Ordinance aforesaid,—and shall have provided for the conduct of the election of such members, in like manner, so far as may be, as if such election were to take place under the provisions of the said Constitution Ordinance, and when and as soon as the said election shall have been held: Be it enacted . . . as follows:

I. [Repugnant part of Constitution Ordinance, etc., repealed.]

II. From and after the day upon which the Governor . . . shall . . . publish the names of the members returned . . . by each of the two electoral divisions of British Kaffraria, then British Kaffraria shall become incorporated with the Cape of Good Hope, for all purposes whatever, . . .

III. The four members aforesaid shall be added to the number of the members of the House of Assembly of the Cape of Good Hope. . . .

IV. The two electoral divisions aforesaid shall, from and after such incorporation as aforesaid, become and remain electoral divisions of the Cape of Good Hope, entitled to be each represented by two members in the House of Assembly, and shall, for the purpose of the election of members of the Legislative Council . . . be comprised in and form part of the Eastern Districts, within the meaning and for the purposes of the Constitution Ordinance. . . .

VI. [Supreme Court of British Kaffraria abolished. Eastern Districts Court substituted.]

XII. [Repugnant laws of British Kaffraria repealed.]

XIII. [Laws, duplicates of, or identical with, Cape laws, repealed.]

XV. [British Kaffrarian insolvent law repealed and Cape law substituted.]

XVI. [Revenues to be payable to the Cape Colony and to be collected as in the Cape Colony by civil commissioners. Customs-officers to collect as at the other Cape ports.]

XX. . . . And whereas it is expedient that the number of the elective members of the Legislative Council of the Cape of Good Hope should be increased to twenty-one, and that the number of the members of the House of Assembly of the said Colony should be increased to sixty-six, such number to include the four members aforesaid to be returned by the two

electoral divisions . . . which . . . formed the territory of British Kaffraria: Be it enacted as follows:

XXI. [Legislative Council to consist of twenty-one members.]

XXII. Three of the six members required to complete the number of twenty-one members shall be elected by the Western Districts, and three by the Eastern Districts of this Colony.

XXIV. For the purpose of electing the sixteen members required, together with the four members in the second, third, and fourth sections of this Act mentioned, to complete the number of sixty-six members of the House of Assembly, the following ten fiscal divisions shall be, and the same are hereby constituted, respectively, electoral divisions,—that is to say, Aliwal North, Namaqualand, Oudtshoorn, Piketberg, Riversdale, and Queenstown, whilst the fiscal divisions of Victoria West and Fraserburg shall together constitute a seventh electoral division, and the fiscal divisions of Hope Town and Richmond shall together constitute an eighth electoral division.

XXV. Each of the said eight electoral divisions shall be entitled . . . to elect two members of the House of Assembly.

[Etc.]

P.R.O., C.O. 50/4.

ANNEXATION OF BASUTOLAND. [11 Aug. 1871.]

No. 12 of 1871.

No. 33. *Act.*—For the Annexation to the Colony of the Cape of Good Hope of the Territory inhabited by the Tribe of People called Basutos. [*Vide* also No. 170.]

WHEREAS by a Proclamation dated the 12th day of March 1868, by His Excellency Sir Philip Wodehouse, . . . published on the 13th day of March 1868, in the *Government Gazette* of this Colony, it was declared that from and after the publication thereof, the Tribe of the Basutos should be and should be taken to be for all intents and purposes British subjects, and the territory of the said tribe should be and should be taken to be British Territory: And whereas the territory is contiguous, on a considerable portion of its boundary, to the boundary of this Colony, and it is for other reasons also desirable that the said territory should be annexed to this Colony, so that this Colony in its present extent, together with the said territory, may form one Colony: And whereas the said tribe of the Basutos are not yet sufficiently advanced in civilization and social progress to be admitted to the full enjoyment and be subjected to the full responsibility granted and imposed respectively by the ordinary laws of the Colony to and upon

the other citizens thereof, but it is expedient that for the time being the said tribe and the territory thereof should be subjected to special administration and legislation: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. That from and after the publication by the Governor of the Colony of a proclamation for bringing this Act into operation the said territory, bounded as follows, that is to say: —From the junction of the Cornet Spruit with the Orange River, along the centre of the former to the point nearest to Olifants Been; from that point by Olifants Been, to the southern point of Langeberg; along the top of Langeberg, to its north-western extremity; from thence to the eastern point of Jammerberg; along the top of Jammerberg, to its north-western extremity; from thence by a prolongation of the same to the Caledon River; along the centre of the Caledon River to its junction with the Klein Caledon; along the centre of the Klein Caledon, to the heads of the Orange River, at the Mount Aux Sources; thence westward along the Drakensberg, between the watersheds of the Orange River and the St. John's River, to the source of the Tees, down the centre of that river to its junction with the Orange River, and down the centre of the latter river to its junction with the Cornet Spruit, shall be and the same is hereby annexed to the Colony of the Cape of Good Hope, so that the territory heretofore included in the Colony of the Cape of Good Hope shall, for the future, together with the said territory hereinbefore defined form the Colony of the Cape of Good Hope, but the territory hereinbefore defined shall nevertheless be and remain, for the time being, subject to the laws, rules and regulations now in force therein for the Government thereof, and shall not by virtue of such annexation as hereinbefore is mentioned be or become subject to the general law of this Colony.

II. [Power to frame, repeal, or amend laws for the annexed territory is vested in the Governor. Cape laws to apply only when specially extended to the said territory. All laws, etc., to be laid before Parliament, who may disallow them.]

III. [Cape courts to have jurisdiction in certain cases.]

IV. [Annexed territory to be called Basutoland.]

V. This Act may be cited as "The Basutoland Annexation Act, 1871."

P.R.O., C.O. 50/5.

RESPONSIBLE GOVERNMENT. [28 Nov. 1872.]

No. 1 of 1872.

I reserve this Bill for the Signification of Her Majesty's pleasure.

HENRY BARKLY, *Governor.*

GOVERNMENT HOUSE,
CAPE TOWN, 18 *June* 1872.

No. 34. *Act.*—To amend the Ordinance enacted on the 3rd of April 1852, by the GOVERNOR OF THE COLONY OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, intituled "An Ordinance for Constituting a Parliament for the said Colony."

WHEREAS it is expedient, in order to the introduction of the system of executive administration, commonly called Responsible Government, to amend in certain respects the Ordinance enacted on the third day of April, in the year 1852, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, intituled "An Ordinance for Constituting a Parliament for the said Colony": Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. From and after the taking effect of this Act, there shall be in this Colony a certain office to be called the office of "Commissioner of Crown Lands and Public Works," and a certain other office to be called the office of "Secretary for Native Affairs."

II. The persons to hold the said offices respectively shall be appointed by Her Majesty the Queen, and shall hold office during Her Majesty's pleasure, and shall be charged with such duties as Her Majesty shall from time to time assign to them.

III. The following persons holding offices of profit under Her Majesty the Queen shall be eligible, if otherwise duly qualified under the provisions of the Ordinance aforesaid, to be elected as members of the Legislative Council or of the House of Assembly, anything in the thirty-third and forty-seventh Sections of the Ordinance aforesaid to the contrary notwithstanding, that is to say, the Colonial Secretary, the Treasurer of the Colony, the Attorney-General, the Commissioner of Crown Lands and Public Works, and the Secretary for Native Affairs: Provided, always, that it shall be lawful to appoint to any such office as aforesaid any person being already at the time of such appointment a member of the said Council or of the said Assembly.

IV. It shall be lawful for any person holding any of the offices in the third section of this Act mentioned, and being likewise a member of either the Legislative Council or of the

House of Assembly, to sit and take part in any debate or discussion which may arise in the House whereof he does not happen to be a member, subject, nevertheless, to any such standing rules and orders, as are in the seventy-eighth section of the Ordinance aforesaid mentioned; but it shall not be lawful for any such officer to vote on any proceeding in such House whereof he shall not be a member.

V. From and after the taking effect of this Act, the seventy-ninth section of the Ordinance aforesaid shall be, and the same is hereby repealed.

VI. [Pensions of present Executive Officers secured, but pensions to merge, or be reduced, on the reappointment of pensioners to office.]

VII. [Salaries of officers mentioned in Section III.]

VIII. [These officers not entitled to pensions.]

IX. This Act shall commence and take effect when and so soon as the Governor shall by proclamation [1] declare that Her Majesty has been pleased to allow and confirm the same.

X. This Act may be cited for all purposes as "The Constitution Ordinance Amendment Act, 1872."

P.R.O., C.O. 50/5.

AMENDMENT OF THE CONSTITUTION ORDINANCE.

No. 18 of 1874.

No. 35. *Act.*—To amend the Constitution Ordinance and Act No. 3 of 1865, and to repeal Act No. 6 of 1859. [Assented to 31 July 1874.]

WHEREAS it is expedient, in order to secure to the electors a more equal exercise of the franchise, to divide the Colony of the Cape of Good Hope into seven electoral provinces, for the purpose of electing the members of the Legislative Council, and to alter in other respects, the constitution of the said Council: And whereas it is necessary, for the purposes aforesaid, to amend the Constitution Ordinance and Act No. 3 of 1865, and to repeal Act No. 6 of 1859: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. [Sections 4 and 5 of the Constitution Ordinance, Act No. 6 of 1859,[2] and section 31 of Act No. 3 of 1865, repealed. The present Council to be deemed to have been elected for five years.]

II. For the purpose of electing hereafter the twenty-one elective members of the said Council, as provided for by the

[1] *Procl.*, 28 Nov. 1872.

[2] Providing that when the number of candidates for the Legislative Council did not exceed the number of vacancies no poll would be necessary.

twenty-first section of Act No. 3 of 1865, the Colony of the Cape of Good Hope shall be divided into seven electoral provinces, and such provinces shall respectively consist of the electoral divisions following, that is to say:

1. The western electoral province shall consist of the electoral divisions of Cape Town, Cape Division, Stellenbosch, and Paarl.

2. The north-western electoral province shall consist of the electoral divisions of Worcester, Malmesbury, Piquetberg, Namaqualand, and Clanwilliam.

3. The south-western electoral province shall consist of the electoral divisions of Swellendam, Caledon, Riversdale, Oudtshoorn, and George.

4. The midland electoral province shall consist of the electoral divisions of Graaff-Reinet, Richmond, Beaufort West, and Victoria West.

5. The south-eastern electoral province shall consist of the electoral divisions of Port Elizabeth, Uitenhage, Grahamstown, Albany, and Victoria East.

6. The north-eastern electoral province shall consist of the electoral divisions of Somerset East, Fort Beaufort, Cradock, Colesberg, and Albert.

7. The eastern electoral province shall consist of the electoral divisions of King William's Town, East London, Queen's Town, Aliwal North, and Wodehouse.

III. [Each electoral province to elect three members, who shall vacate their seats every seven years.]

VIII. [Members of either house vacate their seats by accepting offices of profit, except the offices of Colonial Secretary, Treasurer, Attorney-General, Commissioner of Crown Lands and Public Works, and Secretary for Native Affairs.]

X. This Act may be cited for all purposes as the "Constitution Ordinance Amendment Act, 1874."

P.R.O., C.O. 50/5.

ANNEXATION OF TRANSKEIAN TERRITORIES.

[15 Aug. 1879.]

No. 38 of 1877. [Reserved by Governor.]

No. 36. *Act.*—To provide for the Annexation to the Colony of the Cape of Good Hope of the Country situated between the Bashee and the Kei, commonly known as Fingoland and the Idutywa Reserve, and the Country situated between the Umtata and the Umzim-Kulu, commonly known as Nomansland, and for the government of the said Territories.

IV. This Act may be cited as the "Transkeian Annexation Act, 1877." *P.R.O., C.O.* 50/6.

ANNEXATION OF GRIQUALAND WEST.

[Confirmed 15 Aug. 1879.]

Act No. 39 of 1877. [Reserved by Governor.]

No. 37. *Act.*—To make provision for the Annexation to this Colony of the Province of Griqualand West.[1]

XXXIV. This Act may be cited as the "Griqualand West Annexation Act, 1877." *P.R.O., C.O.* 50/6.

EQUAL LANGUAGE RIGHTS IN PARLIAMENT.

No. 1 of 1882.

No. 38. *Act.*—To amend the Constitution Ordinance. [Assented to 25th May 1882.]

WHEREAS it is expedient to amend the Ordinance enacted on the third day of April 1852, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof intituled "An Ordinance for Constituting a Parliament for the said Colony": Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. So much of the Eighty-ninth Section of the said Ordinance as is repugnant to or inconsistent with the provisions of this Act shall be and the same is hereby repealed.

II. From and after the passing of this Act all debates and discussions in the Legislative Council and House of Assembly may be conducted either in English or Dutch, but in no other language.

III. This Act may be cited as the "Constitution Ordinance Amendment Act, 1882." *P.R.O., C.O.* 50/7.

REPRESENTATION OF KIMBERLEY IN PARLIAMENT.

No. 13 of 1882.

No. 39. *Act.*—To grant Increased Representation in the House of Assembly to the Electoral Division of Kimberley. [Assented to 21st June 1882.]

WHEREAS it is desirable to amend Act No. 39 of 1877, known as "The Griqualand West Annexation Act, 1877," by

[1] See documents Nos. 84 and 171. The annexation was only effected on 15th Oct. 1880 by Procl. in the *Gazette*, after this Act received the royal assent.

making provision for an increase in the number of the representatives now returned to the House of Assembly for the Electoral Division of Kimberley: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

I. So much of the fifth section of Act No. 39 of 1877, known as "The Griqualand Annexation Act, 1877," as may be repugnant to or inconsistent with this Act, is hereby repealed.

II. At the next ensuing general election, and thereafter, the Electoral Division of Kimberley shall be entitled to return to the House of Assembly of the Cape of Good Hope four members.

III. This Act may be cited as the "Kimberley Increased Representation Act, 1882."

P.R.O., C.O. 50/7.

DISANNEXATION OF BASUTOLAND. [18 March 1884.]

No. 34 of 1883. [Reserved.]

No. 40. *Act.*—For the Disannexation of Basutoland from the Colony of the Cape of Good Hope.

WHEREAS it is desirable that Basutoland should cease to form part of the Colony of the Cape of Good Hope; and whereas Her Majesty's Imperial Government has expressed its willingness to provide for the future Government of Basutoland upon certain conditions; and whereas it is expedient that due provision should be made for relieving this Colony from all responsibility for or in connection with the Government of Basutoland: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. The Act No. 12, 1871, intituled "An Act for the Annexation to the Colony of the Cape of Good Hope of the Territory inhabited by the tribe of people called the Basutos," shall be and the same is hereby repealed.

II. From and after the taking effect of this Act, there shall be paid annually to Her Majesty's High Commissioner, or such other officer as Her Majesty may be pleased to appoint in that behalf, as a contribution towards any deficiency that may arise in the revenues of the Government of Basutoland, out of the public revenue of this Colony, such sum, not exceeding twenty thousand pounds, as may be hereafter from time

to time agreed upon by and between Her Majesty's Imperial Government and the Government of this Colony.

III. This Act shall come into operation when the Governor shall by proclamation declare that Her Majesty has been pleased to allow and confirm the same.

IV. The short title of this Act shall be the "Basutoland Disannexation Act, 1883."

P.R.O., C.O. 50/7.

ANNEXATION OF WALFISH BAY.

[Promulgated 25 July 1885.]

No. 35 of 1884.

No. 41. *Act.*—To provide for the Annexation to the Colony of the Cape of Good Hope of the Port or Settlement of Walfish Bay on the West Coast of Africa and of certain Territory surrounding the same, and of certain British Territories on the St. John's River in South Africa.

[By Letters Patent dated 14th December 1878 the Governor of the Cape Colony had been authorised to declare the port, settlement, and territory of Walfish Bay annexed to the Cape Colony.]

P.R.O., C.O. 50/7.

ANNEXATION OF TEMBULAND.

[A Bill to provide for the annexation of Tembuland was passed in 1880 but was not confirmed.]

[Promulgated 14 July 1885.]

No. 3 of 1885.

No. 42. *Act.*—To provide for the Annexation to the Colony of the Cape of Good Hope, of the British Territories known as *Tembuland*, *Emigrant Tembuland*, *Gcalekaland* and *Bomvanaland*, and for the Government of the said Territories.

[Letters Patent of 2 Oct. 1884, had authorised the annexation.]

1. [Governor may proclaim [1] date of annexation.]

2. [The laws at present in force in these territories may, until otherwise provided by Parliament, be repealed and modified and new laws may be made by the Governor in Council. No Cape Acts to apply, unless expressly provided or unless extended to any of these territories by the Governor in Council.]

[1] Procl. in the *Gazette* of 1 Sept. 1885, but dated 26 Aug.

3. [Eastern Districts Court to have jurisdiction over the annexed territories.]

4. [Resident Magistrates to have jurisdiction in crimes and offences not punishable by death.]

5. [Decisions may be reviewed by the Chief Magistrate of the territory concerned.]

6. [Appeals in civil cases may be made to the Chief Magistrate, or to the Supreme Court, or to the Eastern Districts Court.]

7. This Act may be cited as the "Tembuland Annexation Act, 1885."

P.R.O., C.O. 50/7.

ANNEXATION OF THE XESIBE COUNTRY.

[25 Oct. 1886.]

No. 37 of 1886. [Reserved.]

No. 43. *Act.*—To provide for the Annexation to the Colony of the Country known as the Xesibe Country.

WHEREAS by Resolution passed in both branches of the Legislature it has been declared to be expedient that the country situated between the district of Kokstad in Griqualand East and Pondoland East, known as the Xesibe Country, comprised in the district now called Mount Ayliff, should be annexed to the Colony: And whereas it is the intention of Her Majesty the Queen to issue her Royal Letters Patent to authorise the Governor of the Cape of Good Hope, by a proclamation under his hand and the public seal of this Colony, to declare that from and after a day to be therein mentioned, the said country should be annexed to, and form part of, this Colony, and to determine and signify the limits of the said country so annexed, in case the Legislature of the Colony should have passed an Act providing that the said country should become a part of this Colony: And whereas it is expedient that such an Act should be passed: Be it, therefore, enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

1. [Governor may proclaim the Xesibe Country to be annexed to the Colony and form part of Griqualand East.]

2. This Act may be cited as the "Xesibe Country Annexation Act, 1886."

P.R.O., C.O. 50/7.

REPRESENTATION OF THE TRANSKEI.

[Promulgated 9th August 1887.]

No. 30 of 1887.

No. 44. *Act.*—To provide for the Representation in the Parliament of this Colony of persons in the Transkeian Territories.

[Preamble.]

1. [Meaning of "Transkeian Territories": The Transkei (including Gcalekaland), Tembuland (including Emigrant Tembuland and Bomvanaland), and Griqualand East (including the Territory on the St. John's River).]

2. [Transkeian Territories to be included in the Eastern Electoral Province of the Cape Colony.]

3. Within the said Transkeian Territories there shall be two Electoral Divisions of the Colony of the Cape of Good Hope, and each of such divisions shall be entitled to return one member to the House of Assembly of the Colony.

4. [One shall be called the Electoral Division of Tembuland, and the other the Electoral Division of Griqualand East.]

5. [Election of representatives in the same manner, *mutatis mutandis*, as other members of the Assembly.]

6. [Law of the Colony as to elections to apply.]

7. This Act shall take effect on the first day of September 1887, and may be cited as the "Transkeian Territories Representation Act, 1887."

P.R.O., C.O. 50/7.

ANNEXATION OF RODE VALLEY. [1 Nov. 1887.]

No. 45 of 1887. [Reserved.]

No. 45. *Act.*—To provide for the Annexation to the Colony of the Country known as the Rode Valley.

WHEREAS by resolution passed in both branches of the Legislature, it has been declared to be expedient that the country situated between the districts of Mount Ayliff and Mount Frere, East Griqualand, and Eastern Pondoland, commonly called the "Rode Valley," acquired by the Colonial Government, by purchase from the Pondo Chief Umquikela, should be annexed to the Colony: And whereas it is the intention of Her Majesty the Queen to issue her Royal Letters Patent to authorise the Governor of the Cape of Good Hope, by a proclamation under his hand and the public seal of this Colony, to declare that from and after a day to be therein mentioned, the said country should be annexed to and form part of this Colony, and to determine and signify the limits of the said country so annexed, in case the Legislature of the

Colony should have passed an Act providing that the said country should become a part of this Colony: And whereas it is expedient that such an Act should be passed: Be it, therefore, enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

1. From and after such day as the Governor shall, pursuant of the powers in that behalf contained in any Royal Letters Patent which may be issued for that purpose, by proclamation under his hand and the public seal of the Colony, fix in that behalf, the country in the preamble to this Act mentioned, or so much of the said country as shall be defined in or by any such proclamation, and with the limits and name in any such proclamation signified, shall be annexed to and become a part of that portion of the Colony known as Griqualand East, and be subject to the laws for the time being in force in such portion of the Colony.

2. This Act may be cited as the "Rode Valley Annexation Act, 1887."

P.R.O., C.O. 50/7.

THE AUDITING OF PUBLIC ACCOUNTS.

[21 August 1888.]

No. 32 of 1888.

No. 46. *Act.*—To make further provision for the Audit of the Public Accounts.

Be it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled,[1] as follows:

1. [Sections 18 and 19 of Act. No. 30 of 1875 and a portion of the 35th section of Ordinance No. 105, repealed.]

2. [Accounts rendered by persons or public bodies of public money received, administered, etc., and subject to audit, to be certified as correct by persons rendering them. Punishment for wilfully rendering a corrupt certificate.]

3. [Other accounts and returns to be rendered when required by the Controller and Auditor-General.]

4. [Certificate may be required of person examining vouchers of public accounts that vouchers have been examined and are correct: such certificate, supported by internal evidence of vouchers, may be admitted as satisfactory evidence of payments vouched.]

[1] The formula is noteworthy as a departure from the constitutional theory that the Crown, or through it the Governor, is the fount and origin of all legislation. Cf. Act. No. 15 of 1888 below. The Acts of 1889 reverted to the old formula.

5. The Treasury shall be divided into at least two branches, those of the Receiver-General and Paymaster-General.

6. The Assistant Treasurer shall be the Receiver-General of revenue, and all Civil Commissioners and the Agent-General of the Colony in England shall be Receivers of Revenue.

7. All accounts rendered by Receivers of revenue shall be included in, and their aggregate shall be styled, the Exchequer Account of the Colony.

8. The Assistant Treasurer shall also be the Paymaster-General of the Colony.

9. All taxes, duties, and other revenues, and the proceeds of all loans for the service of the general government, shall be payable to, and levied by, such persons as the Governor may direct, anything contained in Ordinance No. 43, bearing date the 28th of February 1828, and Act No. 3 of 1876 to the contrary notwithstanding; and, when not collected by, shall be paid in to, a Receiver of revenue, in accordance with regulations framed under the provisions of the sixth section of the Audit Act, 1875, and, except in so far as may otherwise be directed in such regulations, all such revenues and proceeds of loans shall be carried without deduction to the credit of the Exchequer Account of the Colony.

10. [Detailed examination of vouchers in auditing heads of revenue referred to in the Schedule may be dispensed with if accounts bear evidence of complete examination and proper certificates; but the collection and account of moneys must be satisfactorily proved.]

11. [Power of the Controller and Auditor-General not limited by the 15th section of the Audit Act of 1875 or the 10th section of this Act.]

12. No money shall be issued out of the Exchequer Account of the Colony, except:

(*a*) on requisition of Ministers, and of the Speaker of the House of Assembly under section 17 of Act 13, 1883, authorised and approved by the Controller and Auditor-General, under the 7th section of the "Audit Act, 1875," or

(*b*) in accordance with regulations framed under the provisions of the "Audit Act, 1875."

13. [Assistant Treasurer or other officer substituted for Treasurer-General for examination of wards' books required by 35th section of Ordinance No. 105.[1]]

14. [Deduction from salary of officer of amount duly surcharged against him; such deduction not to exceed one-quarter of salary due.]

16. [Short title: "Audit Act Amendment Act, 1875."]

[1] Regulating the administration of the property of minors.

SCHEDULE.

Railway, Postal, Telegraph and Customs Revenue, Port and Harbour Dues, Rent (exclusive of Land Rent and Tolls), Fines, Forfeitures and Fees of Court (Judicial), Fees of Office, Sales of Government Property, Reimbursements, Excise Duty, and such other Heads of Revenue as Parliament may by resolutions adopted by both Houses direct.

P.R.O., C.O. 50/7.

SALARY OF HIGH COMMISSIONER FOR SOUTH AFRICA. [Promulgated 13th August 1889.]

No. 38 of 1889.[1]

No. 47. *Act.*—To provide for the Salary of Her Majesty's High Commissioner for South Africa. [Assented to 12th August 1889.]

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

1. [High Commissioner to receive out of the public revenue of the Colony the annual salary of £3000.]

2. [Short title: "The High Commissioner's Salary Act, 1889."]

P.R.O., C.O. 50/7.

NARROWING THE PARLIAMENTARY FRANCHISE. [Promulgated 16th August 1892.]

No. 9 of 1892.[2]

No. 48. *Act.*—To amend the Law with regard to the Qualification of Voters for Members of Parliament, and to make provision for taking Votes by Ballot at Parliamentary Elections.

Be it enacted . . .

1. [Repeal of repugnant laws.]

2. [Interpretation of terms.]

3. [Sections 4, 5, 6, 7, 17, etc. not to apply to voters already registered so long as they continue to reside in places in respect of which they are registered.]

4. Subject to the provisions in the third section contained,

(*a*) The words "twenty-five" where they first occur

[1] Repealed by Act No. 2 of 1902.

[2] Cf. Act No. 2 of 1905, which prescribed when soldiers, seamen, and marines could vote.

in the eighth section of the Constitution Ordinance shall be expunged, and the words "seventy-five" inserted in their stead.

(*b*) The words, "or who having been in the receipt for the space aforesaid of salary or wages at and after the rate of not less than twenty-five pounds by the year shall, in addition to such salary or wages, have been supplied with board and lodging," where they occur in the said eighth section of the said Ordinance, shall be expunged.

(*c*) The words "twenty-five" wherever they occur in the ninth section of the said Ordinance, or in the seventeenth section of the Act 14 of 1887, or wherever they are used in any statute to denote the value of property required to be occupied in connection with the qualification of a parliamentary voter, shall be expunged, and the words "seventy-five" inserted in their stead.

5. [Qualification of voters in Griqualand West to be the same as in other parts of the Colony.]

6. [Subject to a few exceptions] no person shall, from and after the taking effect of this Act, be entitled to be registered as a parliamentary voter for any Electoral Division in this Colony, unless such person is able to sign his name and to write his address and occupation.

[Etc.]

85. This Act may be cited as the "Franchise and Ballot Act, 1892."

P.R.O., C.O. 50/8.

MINISTERIAL OFFICES. [Promulgated 12 Sept. 1893.]

No. 14 of 1893.

No. 49. *Act.*—To create the Office of a Minister of Agriculture, to abolish the Office of Secretary for Native Affairs, and to amend the designation of and provide for the assignment of duties to certain Ministerial Officers.

Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

1. From and after the taking effect of this Act there shall be in this Colony a certain office, to be called the office of "Secretary of Agriculture."

2. The person to hold the said office shall be appointed by Her Majesty the Queen, and shall hold office during Her

Majesty's pleasure, and shall be charged with such duties as Her Majesty shall from time to time assign to him.

3. The provisions of sections 3, 4, and 8 of the Act No. 1 of 1872 and of section 8 of the Act No. 18 of 1874 shall apply to the said office and the Secretary for Agriculture as though the said office and the said Secretary had been therein specifically mentioned and referred to.

4. The Secretary for Agriculture shall from the date of his appointment receive salary at the same rate at which those officers receive salary who are named in section 2 of the Act No. 32 of 1879, which was revived under and by virtue of the provisions of Act No. 28 of 1887, and he may be the Prime Minister.[1]

5. Notwithstanding anything to the contrary contained in the Act No. 1 of 1872, the officers therein styled "The Treasurer of the Colony," and "The Commissioner of Crown Lands and Public Works" shall be respectively styled "The Treasurer" and "The Commissioner of Public Works."

6. The Office of Secretary for Native Affairs constituted under the Act No. 1 of 1872 shall be and is hereby abolished, and the duties and functions hitherto assigned to and exercised by the Secretary for Native Affairs shall, from and after the taking effect of this Act, be discharged and performed by the Prime Minister of this Colony for the time being, or by any other Minister to whom the Governor may assign the same.

7. In the interpretation of any law the word "Minister" shall mean that member of the Executive Council to whom the administration of that law is assigned, unless there be anything in the context inconsistent with or repugnant to such interpretation: Provided that whenever by any law the exercise of any power or the performance of any duty or function is conferred or imposed on or assigned to any Minister therein named, such power, duty, or function may legally be exercised or performed by any other Minister to whom the Governor may assign the exercise or performance of the same.

8. The Prime Minister shall, notwithstanding that save as aforesaid he shall not hold one of the offices referred to in the third section of the Act No. 1 of 1872, be deemed to be included in the empowering provisions of the fourth section of that Act.

9. This Act shall take effect upon the promulgation thereof, and may be cited as the "Minister of Agriculture Act, 1893."

P.R.O., C.O. 50/8.

[1] It is believed that this is the first mention of the office of Prime Minister in any law of the British Empire.

ANNEXATION OF PONDOLAND. [25 Sept. 1894.]
No. 5 of 1894.

No. 50. *Act.*—To provide for the Annexation of the Country known as Pondoland. *P.R.O., C.O.* 50/8.

ANNEXATION OF BRITISH BECHUANALAND.
No. 41 of 1895. [11 Nov. 1895.]

No. 51. *Act.*—To make provision for the Annexation to this Colony of the Territory of British Bechuanaland.
P.R.O., C.O. 50/8.

SECTION B.

LOCAL GOVERNMENT.

REPAIR OF ROADS. [21 March 1800.]

No. 52. *Proclamation.*—By Sir GEORGE YONGE, Baronet, etc.

WHEREAS it appears evident upon Enquiry that the roads of this Colony stand in need of considerable repairs, previous to the ensuing Winter; and as the Burgher Senate and the Landdrosts in the different Districts are the persons under whose immediate orders and directions such repairs are to be undertaken. In order, therefore, that a work so essentially necessary to the comfort and convenience of all ranks of Society may be carried on in such a manner as to those entrusted with the care and management of it may appear most likely to the completion thereof; I do by virtue of these presents declare and make known to all the inhabitants of this Colony, That all Regulations and directions coming from the Burgher Senate or the Landdrosts and Heemraden in their Districts are to be considered in this particular instance as the orders of Government, and are consequently to be obeyed as such, and any person or persons who, regardless of these my Commands, shall neglect or hesitate to comply with the orders and directions they may receive from those acting under my authority shall upon their disobedience being proved pay a Fine of One Hundred Rix-dollars to be appropriated towards the defraying of the Expenses attending the before-mentioned Repairs.

[Etc.]

Rec. III. 82.

REPAIR OF ROADS. [13 Sept. 1806.]

No. 53. *Government Advertisement.*—Notice is hereby given, that in consequence of the representations that have been made to His Excellency the Lieutenant-General Commanding in Chief, upon the bad state of the Roads in the Country Districts, he has directed the several Landdrosts to be written to, authorising them to appoint an Overseer of the Roads in each District, who will be empowered to call upon the Inhabitants to furnish a proportion of their Slaves (according to an accurate list to be furnished by the Landdrost and Heemraden) for the repair of the Roads.

Persons neglecting to furnish their Slaves when called upon, will be liable to a penalty of Fifty Rix-dollars for each offence, which sum is to be levied by Landdrost and Heemraden, and applied to the Fund for the repairing of the Roads.

Procls., etc., p. 37.

THE COLLECTION OF THE REVENUE. [28 Feb. 1828.]

[Civil Commissioners succeeded to the administrative duties of Landdrosts and Heemraden. In 1834 the offices of Civil Commissioner and Resident Magistrate were united. Cf. document No. 73.]

No. 43.

No. 54. *Ordinance.*—Of His Honour the LIEUTENANT-GOVERNOR in Council, for empowering the Collector of Taxes in Cape Town, and the Civil Commissioners of the Country Districts, to collect the several Taxes and Duties now or hereafter to be imposed, and payable within the Colony.

WHEREAS certain of the Taxes now payable in this Colony have been heretofore collected and got in by the Landdrosts, Landdrosts and Commissioned Heemraden, Deputy Landdrosts, Deputy Landdrosts and Commissioned Heemraden, Residents, and Residents and Commissioned Heemraden, of the several Districts, Subdistricts, and Residencies, respectively; and certain others of the said Taxes have heretofore been collected by and got in by the late Burgher Senate: And whereas the Offices of Landdrost, Deputy Landdrost, and Resident, have now ceased and determined, and the said Burgher Senate has been abolished, whereby the Revenue can no longer be collected as heretofore, and it is therefore necessary to make some other Provision in that behalf: Be it therefore enacted, by His Honour the Lieutenant-Governor in Council, that the several Taxes and Duties heretofore payable to, and levied by, the said Burgher Senate, shall, from and after the passing of this Ordinance, be payable to, and levied by, the Collector of Taxes in Cape Town; . . . and the several Taxes and Duties

heretofore payable to, and levied by, the Landdrosts, Deputy Landdrosts, and Residents, of the several Districts, Subdistricts, and Residencies, and all Taxes hereafter to be imposed, shall, from the time aforesaid, be payable to, and levied by, the said Collector and the Civil Commissioners respectively within their respective Jurisdictions; and the said Collector and Civil Commissioners shall have full Right and Power to collect all Taxes and Duties, and Arrears thereof, and to sue for and recover the same by any Action or Suit to be brought by them in any competent Court.

II. And be it further enacted, That the said Collector of Taxes, and the said Civil Commissioners, shall take the following Oath before the Chief Justice, or any of the Judges of the Supreme Court, or any Resident Magistrate (who are hereby empowered and required to administer the same), before they act in pursuance of the provisions of this Ordinance:

> I, *A. B.*, do swear, that I will act truly, faithfully, impartially, and honestly, according to the best of my skill and knowledge, in collecting the several Taxes which I am empowered to do by an Ordinance marked No. 43, bearing date the 28th day of February 1828; and that I will act in all matters and things which shall be brought before me in collecting the said Taxes, without favor or affection. So help me God!
>
> GOD SAVE THE KING.

P.R.O., C.O. 50/1.

MUNICIPAL BOARDS CREATED. [15 Aug. 1836.]

No. 9, 1836.

No. 55. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the Advice and Consent of the LEGISLATIVE COUNCIL thereof, for the creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded.

WHEREAS it is expedient that due provision should be made for the better regulation of certain matters and things of a local nature within the several Districts, Towns and Villages in this Colony, and that Municipal Boards should be constituted and established therein for that purpose: Be it therefore enacted, . . . that from and after the First day of October next, it shall and may be lawful for any Resident Magistrate, or Justice of the Peace, within the limits of his jurisdiction, and he is hereby required, upon a requisition made to him in

writing to that effect by any number of resident Householders, not less than twenty-five, and severally paying taxes to an amount exceeding *six shillings* sterling per annum, and resident respectively within one mile of any one central place which shall be specified in the said requisition, to call a meeting of Householders paying such amount of Taxes as aforesaid, and resident within the limits aforesaid, to determine whether Municipal Regulations shall be adopted for the Town, Village or Place intended to be erected into a Municipality.

II. And be it further enacted, That three weeks' notice at least of the time and place of holding such meeting shall be given by the Resident Magistrate or Justice of the Peace, calling the same, by a printed or written notice affixed to some conspicuous place or places of public resort within the limits aforesaid.

III. And be it further enacted, That the chairman who shall preside at any meeting assembled as hereinbefore directed, shall read, or cause to be read, the requisition whereupon the meeting shall have been summoned, and shall require such resident householders as aforesaid assembled thereat, to determine, by majority of votes, whether municipal regulations shall, or shall not, be adopted and acted upon within the said intended municipality.

IV. And be it further enacted, That if at any such meeting it shall be determined by a majority of votes, that municipal regulations shall be adopted, then and in such case any such Resident Magistrate or Justice of the Peace as aforesaid to whom such determination shall be notified by the chairman of such meeting, shall forthwith call another meeting of such resident householders as aforesaid, to be holden within seven days thereafter, in order to elect and appoint a committee of so many of such resident householders as aforesaid, as the said meeting shall deem expedient, to frame and draw up municipal regulations.

V. And be it further enacted, That the committee so to be elected and appointed, shall be chosen by such resident householders assembled at such meeting by majority of votes.

VI. And be it further enacted, That the committee so chosen as aforesaid, shall forthwith proceed to frame and draw up such municipal regulations as they may deem expedient, and shall submit the same, when prepared, to a meeting of such resident householders as aforesaid, to be called by the said committee upon seven days' notice to be given in manner aforesaid: Provided always, that such committee shall submit such regulations to such meeting as aforesaid, within one month from the date of their appointment, otherwise the said committee shall be *ipso facto* dissolved, and a new

committee shall then and in every such case be chosen in manner and for the purpose aforesaid, at a meeting to be called by any such Resident Magistrate or Justice of the Peace as aforesaid, to whom such dissolution of the committee shall have been notified.

VII. And be it further enacted, That in such regulations it shall be the duty of such committee to fix the limits of the municipality, and to divide the municipality into wards, if necessary, and to fix the number of commissioners and wardmasters for the municipality or the several wards thereof, and to make rules for the classification and valuation of the immovable property therein, and to frame all other regulations which shall be necessary, to enable the said commissioners to carry into effect the provisions of this Ordinance, or such of them as the said committee shall think expedient and necessary for the municipality.

VIII. [Magistrate or Justice of the Peace to be chairman at the meeting of householders.]

IX. And be it further enacted, That at such meeting the question shall be put by the chairman on each and every clause contained in the regulations submitted by the committee, seriatim, and afterwards on the whole of the regulations jointly; and a majority of votes shall decide whether such clause, or the whole of the regulations jointly, as the case may be, shall or shall not be adopted.

X. And be it further enacted, That the regulations adopted at such meeting shall forthwith be transmitted to the Governor of the Colony for the time being, for the approval, amendment, or disallowance thereof, of the said Governor, by and with the advice of the Executive Council; and in case such regulations shall be approved, notice of such approval shall be given by Proclamation to be made in that behalf; and the said regulations shall be published in the *Government Gazette*, and shall thereupon become as legal, valid, and effectual, as if the same had been inserted herein. . . .

XI. [Alteration of regulations from time to time.]

XII. And be it further enacted, That so soon as such original regulations as aforesaid shall have appeared in the *Government Gazette*, the resident magistrate of the district shall, and he is hereby required, by a notice of not less than ten days in manner hereinbefore provided, to call a meeting of such resident householders as aforesaid, residing within the limits of such municipality, to be holden for the election and choice of so many commissioners as shall have been specified in the said regulations to carry the same into effect; and the said commissioners for the municipality, or the wards thereof respectively, shall be elected by a majority of votes

of such resident householders as aforesaid present at such meeting; and any such resident magistrate or justice of the peace shall preside as chairman at such meeting.

XIII. And be it further enacted, That any person residing within the municipality, and being the proprietor of a house situate within the same, and who shall pay annually a sum of not less than one pound sterling in taxes shall be eligible to be elected a commissioner [1] for the purposes of this Ordinance, and shall be proposed at the same meeting by some person duly qualified to vote thereat, and shall be seconded by some other person in like manner qualified.

XIV. And be it further enacted, That every person who shall be elected a commissioner in any municipality in manner aforesaid, shall go out of office at the end of the third year from the said first election; . . . provided always, that any of such out-going commissioners shall be re-eligible, and may be re-elected, and shall in such case continue to act and remain in office, anything herein contained to the contrary notwithstanding.

XV.–XLVII. [Officers of the Boards and details of municipal business.]

XLVIII. And be it further enacted, That every person, who is the occupier of any dwelling-house, either as proprietor or renter, of the yearly value or rent of not less than *ten pounds* sterling, shall be, and be deemed and taken to be, a resident householder within the meaning of this Ordinance: and that at the several meetings of such resident householders [2] as aforesaid, hereinbefore appointed or authorized to be holden, every such householder who shall be personally present, shall have and be entitled to one vote, and no more.

[Etc.]

P.R.O., C.O. 50/1.

CREATION OF ROAD BOARDS. [22 Nov. 1843.]

No. 8, 1843.

No. 56. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, for Improving the Public Roads of the Colony.

. . . Be it . . . enacted by the Governor of the Cape of

[1] Duties assigned to Commissioners: to call meetings for the purpose of assessing taxes, appoint watchmen, provide fire-engines, erect lamp-posts, lay pipes for the conveyance of water, build bridges and streets, establish markets, enforce regulations relative to weights and measures, etc.

[2] The text has "shareholders," obviously an error.

Good Hope, by and with the consent of the Legislative Council thereof, that, from and after the promulgation of this Ordinance, it shall and may be lawful for the Governor of this Colony to nominate and appoint certain fit and proper Persons to form a Central Board of Commissioners, to be styled "The Central Board of Commissioners of Public Roads."

I. And be it enacted, that the said central board shall consist of six persons, three of whom shall be persons holding some office of profit under Her Majesty, and three of whom shall be persons not holding any office of profit under Her Majesty. . . .

II. And be it enacted, that the said governor shall by . . . proclamation . . . nominate and appoint one of the members of the said board to be the chairman thereof. . . .

III. And be it enacted, that it shall and may be lawful for the said board, and it shall be the duty of the same so far as the means from time to time at its disposal will permit, to improve, and, as much as may be, bring into a fit and proper state the main roads throughout the Colony. . . .

XXII. And be it enacted, that so soon as the valuation of the whole of the immoveable property in any division subject to assessment, shall have been completed . . . it shall be lawful for the said board, and it is hereby empowered . . . to assess and impose such a rate[1] as it shall deem necessary and expedient, for effecting the objects of this Ordinance, upon all such immoveable property in such division, whether situated within or beyond the limits of any municipality, as shall be valued at or above the value of fifty pounds sterling. . . .

XXIX. And whereas the branch roads of the Colony stand much in need of reparation, and it is expedient to provide for the gradual improvement of the same;—Be it enacted that the civil commissioner of each division, or officer for the time being acting as such, shall within one calendar month after the valuation of the immoveable property in that particular division shall have been by means of the central board effected, in manner and form as hereinbefore mentioned, call, upon a notice of not less than thirty-one days, to be published in the *Government Gazette*, a meeting of all the owners of immoveable property in such division, valued at fifty pounds or upwards, to be held at some convenient time and place to be named in such notice, for the purpose of electing four persons to form, with such civil commissioner, or officer for the time being acting as such, a board to be styled, "The Board of Public Roads for the Division of ——"

[1] At the expiration of every period of twelve months a new rate may be levied. Not more than three rates are to be levied in any division, and no rate is to exceed 1d. in the pound on the value of property.

XXXIV. And be it enacted, that the four members first elected in each division . . . shall . . . remain in office for the next ensuing three years. . . .

P.R.O., C.O. 50/1.

CREATION OF DIVISIONAL COUNCILS. [8 June 1855.]

No. 5, 1855.

No. 57. *An Act.*—For Creating Divisional Councils in this Colony.[1]

WHEREAS it is expedient that Boards should be established in the several divisions of this colony, for the better administration of their local affairs: And whereas it is expedient to make provision, by this Act, for the better administration of the functions now performed by the Divisional Road Boards, the District School Commissions, and of the Court for the better Regulation of Pounds and Prevention of Trespasses, leaving it to Parliament, hereafter, from time to time, by other Acts thereof, to bestow or impose such further powers, functions, and duties upon such Boards as shall be provided and prescribed: And whereas it is expedient that such Divisional Boards should be called Divisional Councils, and that all the members of every such Council, with the exception of the Civil Commissioner, should be elected by the inhabitants: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

I. The Ordinances No. 8, 1843, and No. 16, 1847, as far as they are contrary to, and repugnant to or inconsistent with, the provisions contained in this Act, are hereby respectively repealed.

II. Every division of this colony shall be divided into six subdivisions, to be called districts, and every such district shall elect one person to be a member of the Divisional Council of such division.

III. [Governor to define limits of districts in each division.]

IV. [Governor may alter limits of districts.]

V. All persons in any such district, registered as voters under the ordinance for constituting a parliament for this colony, and no other persons, shall be entitled to vote for the members of the Divisional Council, to be elected by such district.

VI. [Polls to be taken by field-cornets in their respective wards.]

[1] Cf. the Divisional Councils Acts No. 4 of 1865 and 40 of 1889, not printed in this volume.

VII. No voter shall vote except in the field-cornetcy in which such voter stands registered.

VIII. Every person registered as a voter, for any division, under the ordinance aforesaid for constituting a parliament, shall (except as hereafter excepted) be eligible to be elected, by any district into which such division shall be subdivided as aforesaid, to be the member for such district of the Divisional Council of such division: Provided that no person holding any office of profit under Her Majesty the Queen within this colony, and no uncertificated insolvent, shall be eligible to be elected.

IX. [When field-cornets are to take a poll.]

X. [Poll to be open from 8 a.m. to 5 p.m.]

XI.–XVI. [Manner of polling, counting of votes, etc.]

XVII. [Civil Commissioner to publish names of persons elected.]

XVIII. [And to call the first meeting.]

XIX. [And to preside at all meetings.]

XX. [Three members to form a quorum.]

XXI. [Who to preside if Civil Commissioner is absent.]

XXII. [Members to sit for three years and to be re-eligible.]

XXIII.–XXIV. [Procedure at subsequent elections.]

XXV. [No election to be deemed incomplete so long as there are elected sufficient members to form a quorum.]

XXVI. [When a member vacates his seat.]

XXVII. [Manner of filling vacancies.]

XXVIII. [Civil Commissioner's Clerk to act as secretary of Divisional Council.]

XXIX. [In what terms Divisional Councils shall be referred to.]

XXX. [Each Divisional Council to frame standing rules and orders, which must be submitted to the Governor for his approval.]

XXXI. The powers and functions now vested in the Divisional Road Boards, by Ordinance 8, 1843, shall, from and after the passing of this Act, cease and determine, and all such powers and functions shall be vested in the Divisional Councils by this Act created: Provided that, in regard to the division of the Cape, the joint boards of commissioners and ward-masters of the municipalities of Cape Town and Green Point, voting together as one constituency, shall be entitled to elect three persons, who shall, in regard to all matters connected with the powers and functions in the said Ordinance mentioned, be entitled to sit, deliberate and vote with the members of the Divisional Council of the Cape Division, precisely as if ordinary members thereof: Provided that, as soon as may be after the Civil Commissioner of the Cape Division

shall have issued the notice in the 9th section of this Act mentioned, he shall, by a notice to be published in the *Government Gazette*, appoint a day and hour and fix a place for taking the poll of the joint boards aforesaid, upon which day, and at which place and hour, the said Civil Commissioner shall attend to take the poll; and such Civil Commissioner shall cause the names of the three persons who shall be elected by a majority of votes to be published in the *Government Gazette*; and provided that such notice as aforesaid shall be published for not less than fourteen days before the day named for the taking of the poll: Provided also that every member of such joint boards shall have three votes, but shall not be entitled to give more than one vote to one person: And provided further, that the three persons so elected as aforesaid shall receive due notice of all meetings of the Divisional Council of the Cape Division, for the consideration of all matters relative to the road administration vested, as aforesaid, in such Council, according to such standing rules and orders in that behalf, as shall be framed by the Divisional Council and approved of by the Governor: And provided, lastly, that all liabilities, lawfully existing, against any divisional road board shall survive against the Divisional Council of the same division.

XXXII. The powers and functions now vested in the several District School Commissions shall likewise so cease and determine, and the Divisional Councils created by this Act shall henceforth perform and exercise all functions required to be performed by such School Commissions in their respective divisions.

XXXIII. The powers vested in the Civil Commissioners and Justices of the Peace, under and by virtue of section 27, Ordinance No. 16, of 1847, entitled an Ordinance for the Better Regulation of Pounds and Prevention of Trespasses, shall cease and determine, and be vested in and exercised by the said Divisional Councils, from and after the promulgation of this Act.

XXXIV. This Act shall commence and take effect from and after the promulgation thereof.

P.R.O., C.O. 52/18 (*C. of G. Hope Govt. Gazette*, 12 June 1855).

MANAGEMENT OF PUBLIC ROADS. [5 June 1858.]

No. 9 of 1858.

No. 58. *An Act.*—To provide for the Management of the Public Roads of the Colony.

WHEREAS it is expedient to make other and better provision for the maintenance and improvement of the Public

Roads of this Colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

I. Except as hereinafter provided, Ordinance No. 8, 1843, entitled "An Ordinance for improving the Public Roads of the Colony," and Ordinance No. 12, 1844, amending the aforesaid Ordinance, and Ordinance No. 17, 1847, declaring the meaning and construction of the 21st section of the aforesaid Ordinance, and Ordinance No. 7, 1848, amending and continuing certain provisions of the aforesaid Ordinance, shall be repealed from and after the last day of December next.

II. From and after the first day of January next, the several roads of the colony, which may by any Act of the Legislature of this colony be declared to be a main road, shall be under the charge of the general Government, as hereinafter provided, whose duty it shall be to make, maintain, and improve such main roads, so far as the funds placed at its disposal by this or any future Act will enable it.

III. [Central Road Board dissolved, and its affairs to be wound up by certain commissioners appointed by the Governor.]

VII. [Main roads to be under the control of the Governor, and under the charge of the civil engineer, as chief commissioner, and 3 assistant commissioners.]

VIII. No new line of main road shall be commenced, nor any deviation made from any existing line of main road, nor any new work undertaken upon any existing main road, the cost of which work shall be estimated to exceed two hundred pounds (unless such new work shall be absolutely necessary, to prevent the interruption of the communication on such road), except with the previous sanction of Parliament; and in like manner, the charge of any line of main road shall not be abandoned without such previous sanction.

XX. The several Divisional Councils constituted under Act 5, of 1855, shall, with such funds as are by this or any other Act placed at their disposal for such purpose, be charged with the duty of superintending, making, improving, and preserving all divisional or branch roads within their respective divisions.

XXVI. All persons owning immovable property within any division, or any municipality within such division . . . shall be liable to be rated on account of such property for the maintenance of the public roads. . . .

XXIX. [Municipalities of Cape Town and Green Point to be within the Cape division for purposes of this Act, and to elect four members to the divisional council.]

LIV. Every Divisional Council shall cause an exact and particular account to be kept, and to be made up and balanced at the end of each year . . . and to furnish a copy of such

account, together with all necessary vouchers, to the Governor, in order that the same, after having been audited by the Auditor of the Colony, may be laid before both Houses of Parliament.

[Etc.] *P.R.O., C.O.* 50/3.

EDUCATIONAL BOARDS. [5 June 1858.]

No. 14 of 1858.[1]

No. 59. *An Act.*—For the Creation of Educational Boards in the Field-Cornetcies, Villages, and Towns of this Colony on which the Local Regulations of each shall be founded.

WHEREAS it is expedient that due provision should be made for the establishment and maintenance of public schools in the several field-cornetcies, villages, and towns in this colony, and that educational boards should be constituted and established therein for that purpose: Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof:

I. From and after the first day of July next it shall and may be lawful for any field-cornet, resident magistrate, or justice of the peace, within the limits of his jurisdiction, and he is hereby required, upon a requisition made to him in writing to that effect, by any number of resident householders not less than fifteen in towns and villages, and not less than ten in rural field-cornetcies, and resident respectively within the limits of any such field-cornetcy, village, or town or any ward or wards within the same, which shall be specified in the said requisition, to call a meeting of householders resident within the limit aforesaid, to determine whether educational regulations shall be adopted for the field-cornetcy, village, town, or place intended to be erected into an educational district.

IV. [Meeting to elect a committee to draw up educational regulations.]

V. [Electors of members of Parliament to vote for members of committee.]

VI. [Committee to draw up educational regulations.]

IX. [Regulations to be submitted to a subsequent meeting of householders.]

X. The regulations adopted at such meeting shall forthwith be transmitted by the chairman of such meeting to the divisional council for the approval, amendment, or disallowance

[1] Repealed by Act No. 13 of 1865, not printed in this volume. Other Education Acts to be consulted are No. 24 of 1874, 30 of 1898, and particularly 35 of 1905. The "University Incorporation Act," No. 16 of 1873, is also of interest in this connection.

thereof, of the said council. [If amended by the council the regulations shall again be submitted to a meeting of householders.]

XII. So soon as such original regulations as aforesaid shall have appeared in the *Government Gazette*, the resident magistrate, within the limits of whose jurisdiction the . . . school district shall be included, . . . is hereby required, by a notice of not less than fourteen days, . . . to call a meeting of such resident householders . . . residing within the limits of such school district, to be holden for the election . . . of so many commissioners as shall have been specified in the said regulations to carry the same into effect; and the said commissioners shall be elected by a majority of votes of such resident householders as aforesaid present at such meeting; and any such resident magistrate, field-cornet, or justice of the peace shall preside at such meeting.

XIII. Any person residing in the school district shall be eligible to be elected a commissioner for the purposes of this Act. . . .

XIV. [Commissioners to be elected triennially.]

XXIII. [No commissioner to receive salary, fee, or reward.]

XXXI. The said commissioners shall nominate and appoint the schoolmaster; fix the hours and periods when the school shall be kept open for elementary instruction, the rate of fees, if any, to be charged; hear and decide on all complaints or charges brought before them, regularly and in writing, by any resident householder, against the said schoolmaster, relating to his conduct in the school, or his moral character, and shall be empowered to censure, suspend, or dismiss him, as the facts proved before them may require.

XXXII. In each and every school established under this Act provision shall be made for instruction in the following branches,—that is to say, reading, writing, arithmetic, and the outlines of geography and history.

P.R.O., C.O. 50/3.

MUNICIPALITIES. [30 June 1882.]

No. 45 of 1882.

No. 60. *Act.*—To Consolidate and Amend the Law relating to Municipalities.

WHEREAS it is expedient to consolidate and amend the laws relating to municipalities, and to provide more effectually for the government of municipalities; Be it therefore enacted

by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

PRELIMINARY.

I. This Act shall apply to every municipality hereafter constituted and to every existing municipality which shall in the manner of this Act provided be brought under the operation of this Act.

II. From and after the commencement of this Act the several Laws mentioned in the First Schedule shall be and the same are hereby repealed, except as to property vested, acts and things done or commenced, rights, privileges, and protection acquired, liabilities incurred, offences committed, and proceedings taken, and except as in the fourth section is excepted.

III. In case any municipality incorporated by any Ordinance or Act of the Legislature shall, in pursuance of the provisions of this Act, come under the operation of this Act, it shall be lawful for the Governor, by proclamation, to repeal any such Ordinance or Act incorporating such municipality, but notwithstanding such repeal, the provisions of the several sub-sections numbered (1) to (6) respectively of the next succeeding section shall apply.

IV. Notwithstanding the repeal of the laws hereby repealed, the said several laws shall be and continue in force and applicable to every municipality already established as if this Act had not been passed until such municipality shall come under the operation of this Act, and as often as any existing municipality shall come under the operation of this Act, the following provisions shall apply :

(1) All creditors of such municipality shall have the rights and remedies as if this Act had not been passed.

(2) All municipal regulations then in force in such municipality shall (unless repugnant to the provisions of this Act) continue in force until altered or amended under this Act.

(3) The councillors or commissioners, as the case may be, then in office shall continue in office until the election and first meeting of councillors under the provisions of this Act.

(4) All rates due or payable to or recoverable by such municipality shall be vested in and recoverable by the municipality, newly constituted under this Act, and the valuation or assessment roll in use at such time, shall continue to be used

until a new one shall be completed under the provisions of this Act.

(5) All works and undertakings authorised to be executed, all rights, liabilities, and engagements existing, and all actions, suits, and proceedings pending by or against or in respect of such municipality, shall be vested in, attached to, and be enforced, carried on and prosecuted by or against the municipality newly constituted: and no such action, suit, or proceeding shall abate or be discontinued or prejudicially affected by such constitution.

(6) All property, movable and immovable, and all moneys of or vested in any such municipality, shall be vested in and belong to the municipality newly constituted.

THE CONSTITUTION OF MUNICIPALITIES.

V. The inhabitants of every city, town, or village for the time being subject to the provisions of this Act shall, under such name or designation as the Governor may by proclamation declare, be a body corporate with perpetual succession and a common seal, with power to alter and change the same from time to time, and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and of doing and performing such other acts and things as bodies corporate may by law do and perform subject to the provisions of this Act.

VI. Every municipality subject to the provisions of this Act shall be governed by a council composed of a mayor or chairman, and councillors; and all acts of the council shall be deemed to be acts of the municipality.

VII. Whenever the number of councillors for any municipality is determined under the provisions of this Act, such number shall be not less than six nor more than twenty-four, and in case such municipality is divided into wards, the number produced by the return of three councillors for each ward.

VIII. Subject to the provisions of this Act, the Governor may from time to time exercise all or any of the powers following:

(1) Declare any city, town, or village to be a municipality, constituted under the provisions of this Act.

(2) Assign a name to such municipality.

(3) Describe the boundaries thereof.

(4) Unite any two or more villages, which form one continuous area, so as to form one municipality.
(5) Subdivide or re-subdivide any municipality into any number of wards not exceeding eight.
(6) Alter the boundaries of or abolish the subdivisions existing in any municipality.
(7) Determine and alter, within the limits of this Act, the number of councillors assigned to any municipality.
(8) Alter and adjust the boundaries of adjoining municipalities and determine any questions arising out of such alteration and adjustment.
(9) Sever any portion of a municipality from the municipality of which it forms a part, and constitute the same a separate municipality, or annex the same to any other municipality of which the portion severed formed one continuous area; and from time to time make any apportionment of property, rights and liabilities, and give any directions as to matters and things, that may be necessary to do justice between the municipalities concerned.

IX. [Powers may be exercised by the Governor after a request made by petition.]

X. [Such petition to be signed by three-fourths of the commissioners of any existing municipality, or by twenty-five or more registered voters where no municipality exists.]

XII. [Interested persons may present counter-petitions.]

XIV. [Resident magistrate and others to investigate the matter of such petitions.]

MUNICIPAL COUNCIL.

XV. Every male person of full age liable to be rated in respect of immovable property within the municipality of the yearly value of not less than twenty pounds owned or occupied by him . . . for a period not less than six months next before such election, and in regard to which property no municipal rate made three months or more before the date of such election shall then be due and in arrear, shall be eligible to be elected a councillor, and qualified to hold office as such, but so long only as he shall continue to possess such qualification.

XVI. [Certain men disqualified.]

XVII. No person holding any office or place of profit under Government, or under or in the gift of the council of any municipality, or concerned in, or participating in the profit of, any contract with any municipality, or concerned

in or in the profit of any work to be done under the authority of any such council, shall be capable of being or continuing a councillor of such municipality. . . .

XXVIII. Every person of full age, not disqualified under the provisions of this Act, who on the first day of June in any year is the owner or occupier of any immovable property in any municipality, and who shall have paid all sums if any then payable by such person in respect of any rates made three months or more before such day, shall be entitled to be enrolled on the voters' roll for such municipality according to the following scale:

(1) If the property liable to be rated be of the annual value of, or exceeding, ten pounds, and less than fifty pounds, he shall have one vote.

(2) If such value amount to fifty pounds and be less than one hundred pounds, he shall have two votes.

(3) And if such value amount to or exceed one hundred pounds, he shall have three votes.

[And in case any municipality is subdivided, every voter shall vote in only one ward.]

XL. A first election of councillors in any municipality shall be held on such day within three months after the constitution thereof, as the resident magistrate of the district may appoint.

XLI. [All councillors to be elected at the first election.]

XLII. [There is to be an annual election.]

XLIII. At the annual election [though not at the first election] one-third [only] of the whole number of councillors shall be elected, and in case of a subdivided municipality they shall be elected in equal numbers for every ward.

LXXIV. [The councillors shall elect one of their number to be chairman of the council.]

LXXVI. [He may be styled "chairman" or "mayor" according as the council shall regulate.]

LXXVIII. [Chairman to be *ex officio* a justice of the peace.]

LXXXV. [Meetings of council to be public.]

Bye-Laws or Regulations.

CIX. The council of any municipality may from time to time make, alter, and revoke bye-laws or regulations for all or any of the following purposes:

(1) Regulating the proceedings of the council and the duties of their officers and servants, and preserving order at council meetings.

(2) For preventing and extinguishing fires and compensating the owners of buildings removed to prevent the spread of fire.

(3) For establishing and regulating public markets and market dues and regulating public sales.

(4) For suppressing nuisances, houses of ill fame, and gaming-houses.

(5) For restraining noisome and offensive trades, and compelling residents to keep their premises free from offensive or unwholesome matters.

(6) For regulating the supply and distribution of any water under the control or management of the council.

(7) For regulating sewerage or drainage.

(8) For regulating lighting with gas, electricity, or otherwise.

(9) For preserving public decency.

(10) For preventing the spread of contagious or infectious diseases, and for preserving the public health.

(11) For regulating and licensing boatmen, porters, public carriers, carters, cabs, and vehicles plying for hire.

(12) For regulating the killing of cattle and sale of butchers' meat, and the establishment and locality of slaughter-houses.

(13) For regulating the removal of night soil, stable litter, filth, and refuse from private premises, and from all streets, roads, and public places.

(14) For preventing the dangerous use of gunpowder, fireworks, or other combustibles, and for regulating the storage or removal of petroleum, gunpowder, dynamite, or other explosive material.

(15) For imposing a tax upon the keeping of dogs.

(16) For preventing the pollution of any water which the inhabitants have a right to use.

(17) For establishing and maintaining cemeteries.

(18) For planting and preserving trees and shrubs.

(19) For regulating the width, curbing, paving, guttering, gravelling, and cleansing of roads and streets.

(20) For establishing, maintaining, and controlling any ferry, pontoon, or bridge, and levying and collecting tolls and dues thereon.

(21) For granting licenses or permits for the making of bricks, or for digging or removing clay or gravel, or for quarrying stone, or for cutting firewood, brushwood, or grass upon municipal lands, and to prescribe the fees (if any) to be paid for the same.

(22) To establish and provide for the management of pounds and appointment of poundmasters, subject to the provisions hereinafter in this Act contained.

(23) To provide for the management and protection of all common pasture or other municipal lands, and to fix the number and description of live stock any inhabitant shall be allowed to keep and depasture thereon or any part thereof. But no such provision shall interfere with or derogate from any existing rights which may be possessed or enjoyed by any person over such common pasture or other municipal lands either by virtue of any valid title deed or of any lawfully constituted servitude.

(24) To grant temporary grazing rights over the said lands to carriers and others frequenting or passing through the municipality or attending the markets thereof, or to travellers, and to charge such reasonable dues as hereinbefore mentioned in consideration of the same.

(25) For establishing, maintaining, and regulating public libraries, museums, botanical gardens, parks, public baths, and wash-houses, and public places of recreation.

(26) For regulating traffic and processions.

(27) Generally maintaining the good rule and government of the municipality. . . .

Making of Rates.

CXXV. The council of every municipality shall once at least in every year, and may from time to time as they may see fit, make and levy rates upon all rateable property within the municipality. And such rates may be :

(1) A landlords' or owners' rate assessed upon the value of the rateable property.

(2) A tenants' rate assessed upon the annual value of such property.

Or either or both of such rates.

[These rates not to exceed 2d. in the £ and 8d. in the £ respectively.]

POWERS AND DUTIES OF THE COUNCIL.

CLVI. The council shall have power and authority to do all or any of the following things:

To make, construct, alter, keep clean and in repair the roads, streets, dams, furrows, sewers, drains, culverts, and bridges within the limits of the municipality.

To excavate, construct, and lay down within the limits of the municipality, water courses, water pipes, conduits, sluices, dams, reservoirs, aqueducts, wells, and other works for supplying the inhabitants of the municipality with water, and to keep the same in repair, or to grant leave to any person or company of persons, to lay down pipes or to execute any other like works.

To lease, or purchase any land, and to erect, lease or purchase, maintain and keep in repair, any building or buildings for any municipal requirement or purpose.

To lease, purchase, or erect and maintain such school buildings and manage such schools as the council shall, from time to time, think proper; and to enter into such guarantees in respect of such schools as may be required by the Government, in case any aid from the Government in support of such schools should be required under any Act which may now or hereafter be in force for this purpose.

CLVII. The council of any municipality may appoint and employ such number of street-keepers, policemen, and special constables as shall be required. . . .

CLXXIII. All penalties or other moneys payable in respect of any offence against this Act, or any bye-law made thereunder, may be recovered before the Court of the Resident Magistrate of the district.

First Schedule.

Enactments Repealed.

Number and Year.	Title.	Extent of Repeal.
*Ordinance No. 9, 1836.	Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded.	So much as has not been already repealed.
Ordinance No. 2, 1844.	Ordinance for amending the Ordinance No. 9, 1836, entitled [as above.]	The whole.
Ordinance No. 8, 1848.	Ordinance for enlarging in certain respects the powers of Municipal Commissioners in regard to the Common Pasture Lands of the Municipality.	The whole.
Ordinance No. 5, 1852.	Ordinance to enable Municipal Commissioners appointed under Ordinance No. 9, 1836, to purchase or hire immovable property for municipal purposes.	The whole.
Act No. 15, 1860.	For continuing the Ordinance No. 9, 1836, entitled [as above], as also the Ordinance No. 2, 1844, entitled [as above.]	The whole.
Act No. 13, 1864.	To amend the Ordinance No. 9 of 1836, entitled [as above.]	The whole.

* Yet Act No. 9 of 1885 was again passed to amend Ord. No. 9 of 1836!

Second Schedule. [Form of Nomination.]

P.R.O., C.O. 50/7.

SECTION C.

ADMINISTRATION OF JUSTICE.

THE COURT OF JUSTICE. [11 Oct. 1795.]

No. 61. *Proclamation.*—By General ALURED CLARKE, Vice-Admiral Sir GEORGE ELPHINSTONE, and J. H. CRAIG, Esq.

WHEREAS, after having considered of the most proper means of promoting, as much as possible, agreeable to the paternal intention of His Britannick Majesty the prosperity and welfare of the Inhabitants of this Colony,

We have conceived that the maintaining of an uncorrupted Justice and consequently the establishment of a Court of Justice by which not only the Laws for the maintenance of Peace, and Good Order, might be strictly enforced, but also the mutual differences of the Inhabitants might be judged and adjusted, according to the Laws, would be best conducive to the fulfilling of that salutary intention, as the due maintenance of Law and Justice is the best surety for the safety and happiness of a regular Society. And believing that it will be for the benefit of the Colony in general, and of each individual in particular, that the administration of Justice should be given again to, and consequently remain in, the hands of those who till now have had the charge of that important office, and who are therefore supposed to be acquainted with the Laws and Customs of this country; We have thought it expedient to re-establish, as we by these presents re-establish, the Court of Justice of this Country in the same manner as the said Court has existed on the 16th September last, when this Colony was surrendered to His Britannick Majesty, in order to administer Justice, in the name of His said Majesty, in the same manner as has been customary till now, and according to the Laws, Statutes, and Ordinances which have been in force in this Colony, which we command to be followed in their full tenor and effect, as far as the same are not by us or in our name, or in that of any Governor or Commander-in-Chief for the time being, already altered or in future may be altered for the general benefit. Wherefore we command and enjoin all and every of the Inhabitants, to acknowledge, to respect, and to obey, the said Court of Justice, in the said quality, as becomes faithful subjects and good Citizens, on penalty in case of acting contrary of being punished as disturbers of the publick peace and good order according to the Laws. And the Several Members of the said Court of Justice before it resumes its administration will take the Oath of Counsellors of Justice on Monday next the 12th Inst. in the morning at 10 o'clock in the Castle. Whereof these presents are to give notice to all and every one. *Rec.* I. 187.

LANDDROSTS' COURTS. [15 Oct. 1795.]

No. 62. *Proclamation.*—By General ALURED CLARKE, Vice-Admiral Sir G. I. ELPHINSTONE, and Major-General CRAIG, etc. etc.

WHEREAS the good order and Government upon which depends the peace, prosperity, and happiness of the people, require that the Magistrates and Officers of Justice should continue in their present employments and administer Justice in the name of His Britannick Majesty in the usual form and according to the Laws, Customs, and Usages which existed in the Colony previous to its Surrender, until the same be otherwise provided for, these are therefore in His Majesty's name to authorize, appoint, and require you to continue to exercise the office of Landdrost of the district of (Graffe Reynet): hereby investing you with all rights, powers, and authorities heretofore to the said office belonging, until His Majesty's Pleasure signified to you by us, or by any Future Governor or Commander-in-Chief of the Colony for the time being, be known, and the Several Inhabitants of the said district, as well as all others concerned, are hereby required and enjoined to pay all due obedience to you in all Manner of things relating to your said office as Landdrost, and we do further direct that all other Magistrates and others heretofore enjoying offices of Police in the said district of (Graffe Reynet) do continue to exercise their several Employments as usual, till otherwise ordered, for which this shall be to you and to them a full and sufficient warrant.

Rec. I. 199.

POLICE ARRANGEMENTS. [20 May 1797.]

No. 63. *Proclamation.*—By His Excellency GEORGE, EARL OF MACARTNEY, etc.

WHEREAS representations have been made to me that, upon a report of the Bosjesmen or Wild Hottentots having plundered the Inhabitants dwelling near the Hex River on the side of the Bokkeveld in the district of Drakenstein, of a considerable quantity of their Cattle, the Landdrost of Stellenbosch had ordered an armed party of the Inhabitants to assemble, and under the command of a Veld Wachtmeester to endeavour to recover the Cattle that had been taken away, but that then and in frequent instances of late the greatest Indifference and Neglect of these Commands had been shown, to the Detriment of good Order and the evident inconvenience and danger of the well-disposed and industrious Inhabitants.

I have therefore judged it expedient and necessary to authorize the Landdrost and Magistrates of the several Districts of this Colony, and do by these presents authorize and empower the said Landdrosts and Magistrates, each within his District, to order a party of the Inhabitants to arm, assemble, and take the field against the Wild Bosjesmen at all times when such an expedition shall appear requisite and proper. And I do by these presents enjoin and command the Inhabitants so called upon to pay due and immediate obedience to the Orders of the Veld Wachtmeester, or other persons appointed by the Landdrost or Magistrates to command the said party, and vigilantly to assist in repelling or attacking the Wild Bosjesmen, Runaway Slaves, or other Depredators of private property and Disturbers of the public peace. And altho' the Interest of the persons called upon to act in defence of their property against the savage and common Enemy should of itself sufficiently excite them to pay ready and cheerful obedience to commands issued for their own safety and welfare, still instances to the contrary having happened, I have judged it expedient and proper to give this public notice of the foregoing Authority and Instructions given to the Landdrosts, and by these presents to warn and command all and every one of the Inhabitants of this Colony, when thus legally called upon, to pay immediate and cheerful Obedience, as they shall answer to the contrary by Fine or such other punishment as has been usual under the former Government and the Nature of the Crime shall appear to require.

Rec. II. 89.

COURTS OF JUSTICE. [24 July 1797.]

No. 64. *Proclamation.*—By His Excellency GEORGE, EARL OF MACARTNEY, etc.

The Administration of Justice being an object of the highest concern to the welfare of the People, and consequently engaging the particular care and attention of His Majesty's Government, It appears to me expedient to make certain arrangements and regulations in the judicial Courts of this Colony for the ease and benefit of its Inhabitants.

I observe from the records, that by the instruction of the former Government, dated 3rd December 1783, the Court of Justice was to consist of thirteen Persons, viz.: the President, the Fiscal, and eleven ordinary Members, and that at the time of the Capitulation, on the 16th September 1795, It then consisted of the President, the Fiscal, and nine ordinary Members,

besides two others, Mr. Henry de Wet and Mr. Peter Truter, who tho' on account of their affinity with the President and the member Mr. Henry Andrew Truter, they had no judicial Seats in the Court, yet attended and were employed on commissions of inspection, judicial enquiry, and information. Nearly according to this form the Court of Justice was re-established by the late Governor my Predecessor, and appointed to discharge its usual functions.

In the same manner were continued the other Boards of Judicature, that is to say, In the Cape Town the Court of Commissioners authorized to determine questions not exceeding 100 Rixdollars, and at Stellenbosch, Swellendam, and Graaf Reinet those of the Landdrost and Heemraden, the two former authorized to determine Suits not exceeding 100 Rixdollars, and the latter on account of its exposed situation empowered to determine Suits of 1000 Guilders.

Now considering that the Inhabitants of this Colony have been long accustomed to the subsisting laws and jurisprudence, and that no abuse of the same has come to my knowledge, I think it proper to declare, and it is by these presents declared and directed that the administration of the civil and criminal Justice do continue on the ancient Ground, except where it shall have already been altered and improved since the surrender of this Colony, or shall hereafter be altered and improved as occasion may require.

I have also judged it convenient for the public service to lessen the number on the establishment of the Court of Justice and to order that it henceforth do not exceed the following numbers, viz.: The President, the Fiscal, and five ordinary Members. The said seven Members therefore are to constitute the full Court, and that the Members Mr. Henry de Wet and Mr. Peter Truter do attend on commissions, as the ordinary Members until such times as they shall be directed to take their seats on the bench according to their seniority when enabled by such vacancies as will remove the cause of their present restriction.

And tho' it be my wish and intention that in order to have Justice amply administered the Court be complete when it is to pronounce Judgment, on which occasion all other business should give way, it is nevertheless declared that any Judgment or sentence pronounced by five persons of the Court shall be lawful. But as on account of Commissions in the Country or other indispensable absence of some of the Members it may happen that the Court of Justice cannot well be filled to the above-mentioned number of five persons, and that the case for determination may admit of no delay, the Court of Justice may then and for such occasion adopt or select for their

Assessor or Assessors one or two Members of the Burgher Senate, as may be requisite to complete the proper number, such assessor or assessors duly taking the Judge's Oath.

And Whereas from the increase of Inhabitants and from other circumstances of this settlement it would be useful and beneficial to the same to make some alteration with regard to the other Courts or Boards of Judicature within this Colony, Be it therefore known, and it is hereby published and directed that the Board of Commissioners for petty civil matters is henceforth authorized and empowered to determine Suits amounting to a sum not exceeding two hundred Rixdollars value, and the several country Boards of Landdrost and Heemraden, of Stellenbosch, of Drakenstein, and of Swellendam to determine Suits of one hundred and fifty Rixdollars value, and the Board of Graaff Reinet to continue to determine Suits of 1000 Guilders as usual, and the execution of the sentences or Judgments pronounced by all those Boards respectively is to remain on the same footing as hitherto, and to be enforced accordingly.

And Whereas it being His Majesty's pleasure that a Court of Civil Jurisdiction consisting of the Governor together with the Lieutenant-Governor should be erected for the hearing and determining appeals from the Courts of law within this settlement, It is hereby declared that the said Court for hearing and determining appeals is now open, and that all persons are permitted and allowed to bring appeals and prosecute the same before it, provided nevertheless that in all such appeals the sum or value appealed for do exceed the sum of two hundred pounds sterling or 1000 Rixdollars, and that security be first given by the Appellant to answer such charges as shall be awarded in case the first sentence be affirmed; and if either party shall not rest satisfied with the Judgment on appeal, they may then further appeal to the King in Council, provided the sum or value so appealed for to His Majesty do exceed five hundred pounds sterling, or 2500 Rixdollars, and that such appeal be made within fourteen Days after the sentence and good security given by the Appellant that he will effectually prosecute the same and answer the condemnation, as also pay all costs and damages as shall be awarded.

In all matters of appeal the Appellant and Respondent shall, twenty-one Days at least before the hearing, furnish the Court of Appeals with briefs and statements of their case in the English language and certified by the Secretary of the Court appealed from that they are true briefs and contain nothing different from what appeared in the proceedings before the said Court.

Rec. II. 126.

37215

COURT OF APPEAL IN CIVIL CASES. [29 May 1807.]

No. 65. *Proclamation.*—By His Excellency DU PRÉ, EARL OF CALEDON, etc.

WHEREAS His Majesty has been pleased to direct that a Court of Civil Jurisdiction for hearing and determining Appeals from the Courts of Law within this Settlement, should be erected, and that the said Court should consist of the Governor and Lieut.-Governor, and that in the event of the absence of the Governor or Lieut.-Governor, the full power of hearing and determining Appeals is vested in whichever shall be present: It is hereby declared and made known that the said Court is now open, and that all Persons are henceforth allowed and permitted to bring forward and prosecute Appeals before it; provided nevertheless, that in all such Appeals the Sum or Value appealed for do exceed the Sum or Value of £200 Sterling (or 1000 Rds.) and that Security be first duly given by the Appellant to answer such Charges as shall be awarded, in case the first Sentence be affirmed; and if either party shall not rest satisfied with the Judgment on Appeal a further Appeal may be made to the King in Council, provided the Sum or Value so appealed for unto His Majesty do exceed £500 Sterling (or 2500 Rds.) and that such Appeal be made within fourteen days after sentence, and good Security be given by the Appellant that he will effectually prosecute the same and answer the Condemnation, and also pay such Costs and Damages as shall be awarded. In all matters of Appeal, the Appellant and Respondent shall, twenty-one days at least before the hearing, furnish the Courts of Appeals with Briefs and Statements of their Case in the English Language, and certified by the Secretary of the Court appealed from, that they are true Briefs and contain nothing different from what appeared in the Proceedings before the said Court.

Procls., etc., p. 54.

COURT OF APPEAL IN CRIMINAL CASES. [10 June 1808.]

No. 66. *Proclamation.*—By His Excellency DU PRÉ, EARL OF CALEDON, etc.

WHEREAS His Majesty has been pleased to direct that a Court of Appeals for hearing and determining all Criminal Cases whatever, which are appealable from any and every of the Courts within this Settlement, be forthwith established; that the said Appellate Jurisdiction be vested in the Governor

for the time being and such Assessor or Assessors as he may from time to time be pleased to appoint; and that the Sentences pronounced by such Court be final, continuing to the said Governor the right of Pardon and Respite as it now exists: —It is hereby declared and made known that the said Court is now open, and that all Persons may henceforth bring and prosecute Appeals in Criminal Cases in and before the said Court, subject to such orders as may from time to time be made by the said Court, and provided that every such appeal be entered within five days from the date of pronouncing the Sentence or Sentences thereby complained of: And it is further declared and made known that the Sentences given and pronounced by the said Court hereby established, will be final, reserving however, and continuing to the said Governor, the sole right of Pardon and of Respite as it now exists.

Procls., etc., p. 88.

CIRCUIT COURTS ESTABLISHED. [16 May 1811.]

No. 67. *Proclamation.*—By His Excellency DU PRÉ, EARL OF CALEDON, etc.

WHEREAS the cognizance and punishment of all Crimes and Misdemeanours, and the adjudication of all Civil Suits, in which considerable Property is at stake, must, according to the existing regulations of this extensive Colony, take place at the seat of Government; and whereas the delay which is thus occasioned in Criminal Cases weakens the impression that punishment should produce, whilst in Civil Suits the expense and inconvenience that attaches to those who reside in the interior, frequently prevent the aggrieved from having recourse to the only legal means of redress: Now, as the removal of such inconveniences and obstructions, and the application of a Process, by which Justice may be more speedily administered, must be productive of the most beneficial result, not only as inspiring the Good with an increased confidence in the superintending care of Government, but by intimidating the Wicked, and thus preventing the frequency of Crimes, I have judged it proper to order and direct, that a Commission from the Court of Justice (to which for this purpose two Members shall be added) shall once within each year, or oftener, repair to the most distant Country Districts, and take cognizance of all Cases concerning the Inhabitants of those Districts, the prosecution of which has hitherto been carried on before the Court of Justice; and in order to ensure, as far as possible, the effect of this measure, I have further judged proper to enact and order the following Regulations, viz.:

1. From time to time, of which due notice shall be given, a Commission of two or more Members from the Worshipful the Court of Justice shall proceed through the Districts of Swellendam, George, Uitenhage, Graaff-Reinet, and Tulbagh in order successively in each of the same to administer Justice with the same power and authority as is exercised by the full Court in Cape Town, subject nevertheless to such alterations and modifications as may hereafter be declared.

2. The following Cases shall be heard and determined by this Commission:

(*a*) All *Civil* Cases occurring in the said Districts, which do not belong in the first instance to the cognizance of the Court of Landdrost and Heemraden.

(*b*) All appealable *Civil* Cases belonging to the cognizance of the Court of Landdrost and Heemraden in the first instance, but which, after sentence has been pronounced, may be appealed from to the Commission, provided the appeal be prosecuted in the next succeeding Session of the Commission in the District where the cause has been adjudged.

(*c*) But if, on application to the Commission, it shall appear that sufficient time has not elapsed since the passing of sentence by the Court of Landdrost and Heemraden, to enable the parties to bring in their appeal, the Commission shall in such case have the liberty of directing the same to stand over for the ensuing Session.

(*d*) All *Criminal* Cases whatsover, with this exception only, that, when after a full investigation, it appears that the Crime committed is subject to the punishment of Death, in such case the same shall be reserved for the Full Court, and there, at the suit of the competent Prosecutor, be tried, and final sentence passed.

6. The Governor having fixed upon the time for holding the Sessions, the same shall be notified by Publication of the Court of Justice, which Publication shall be forthwith transmitted to the respective Landdrosts, and by the Landdrosts to the Heemraden, Field-Commandants, and Field-Cornets of their Districts, to be by them made known to the Inhabitants at large.

7. Upon such notification being received, the Field-Cornets shall assemble from each family one Slave or Hottentot, and explain to such Slave or Hottentot the general purpose for which the Commission is about to assemble at the Drostdy.

[Etc.] *Procls., etc.*, p. 153.

JUDICIAL PROCEEDINGS IN PUBLIC. [25 Sept. 1813.]

No. 68. *Proclamation.*—By His Excellency Lieutenant-General Sir JOHN FRANCIS CRADOCK, etc.

WHEREAS the Proceedings before the Worshipful the Court of Justice, with open doors, have, by the 38th Article of their Instructions, been confined to the Pleadings alone in the Full Court; and whereas it has appeared to me, to be of essential utility, as well for the dignity of the Administration of Justice, as towards imprinting on the minds of the Inhabitants of this Colony the confidence "that equal Justice is administered to all in the most certain, most speedy, and least burthensome manner";—that all Judicial Proceedings should be carried on in open Court, the beneficial effects of which have been more especially confirmed by the result of the publicity, observed in the proceedings of the different Commissions of Circuit in the Country Districts, agreeably to the Proclamation of the 16th May 1811: I have therefore judged proper to order and direct, as I hereby order and direct accordingly, that from the 11th of November next, the day on which the present Vacation ends, not only all the Pleadings, but also all other Proceedings, as well before Commissioners as before the Full Court, shall be carried on with *open doors*, in the presence and hearing of every person who may think proper to attend.

[Etc.]

Procls., etc., p. 259.

THE CAPE TOWN COURT OF LANDDROST AND HEEMRADEN. [5 April 1816.]

No. 69. *Proclamation.*—By His Excellency General the Right Hon. Lord CHARLES HENRY SOMERSET, etc.

WHEREAS by Proclamation of His Excellency the Earl of M'Cartney, then Governor of this Colony, bearing date the 24th July 1797, amongst other matters belonging and appertaining to the Administration of Justice in this Colony, it was declared, enacted, promulgated, and made known, that the Board of Commissioners for Petty Civil Matters was thenceforth authorised and empowered to try and determine all Suits and Questions of Property, amounting to, or valued at, a sum not exceeding Two Hundred Rix-dollars.

And whereas great advantage has been found to arise from that summary mode of deciding such Questions, and a further extent of their jurisdiction appears highly desirable and useful, I therefore hereby declare, direct, and publish,

that the authority of the said Board of Commissioners (now the Board of Landdrost and Heemraden of the Cape District) shall extend to all Sums and Questions of Property as aforesaid, not exceeding Three Hundred Rix-dollars, as fully as it now does to Sums not exceeding Two Hundred Rix-dollars, and to be enforced accordingly and in like manner, of which the Worshipful the Court of Justice, the said Board of Commissioners (now Landdrost and Heemraden of the Cape District), and all others, are hereby directed to take notice and conform to.

GOD SAVE THE KING.

Procls., etc., p. 359.

CRIMINAL JURISDICTION GRANTED TO LOCAL COURTS. [18 July 1817.]

No. 70. *Proclamation.*—By His Excellency General the Right Hon. Lord CHARLES HENRY SOMERSET, etc.

WHEREAS all Crimes, and even Misdemeanours, subject to a more severe than domestic punishment, committed in the remote Country Districts, can only be prosecuted once a year before the Annual Commission of Circuit, whence essential obstacles are thrown in the way of the prompt administration of Justice, both in consequence of the long detention of the accused, and of the unavoidable delay which occurs before the respective cases can be tried by the competent Court:

I have therefore judged proper, in order to obviate these inconveniences, as far as the nature of circumstances in this Colony admit of, to authorise the several Boards of Landdrost and Heemraden in the Country Districts (that of the Cape District only excepted), and they are hereby authorised and directed accordingly, to take cognizance of the Crimes of *Vagabondising, Cattle-stealing, and other Thefts, not accompanied by any circumstances of Murder, Violence by breaking into Houses or other Inclosures, or other Aggravation; as also of all lesser Crimes and Misdemeanours, liable, by the existing Laws, to a more severe than domestic punishment*; and after all such cases shall have been duly tried, and the Prosecutor R.O. shall have made his claim, and the accused his full defence, to proceed to judgment, and pass Sentence, conformably to the Laws and Usages here in observance.

[Etc.]

Procls., etc., p. 394.

EXCLUSIVE ADOPTION OF THE ENGLISH LANGUAGE POSTPONED. [13 Dec. 1826.]

No. 27.

No. 71. *Ordinance.*—Of His Honour the LIEUTENANT-GOVERNOR IN COUNCIL, for postponing the exclusive Adoption of the English Language in all the Courts of Justice in this Colony.

WHEREAS it is expedient to postpone the period at which the use of the English Language is to be exclusively adopted in all the Courts of Justice in this Colony, until such Arrangements shall be made as may facilitate the introduction of this beneficial measure, and render its utility at once certain and permanent; and whereas many of these Arrangements have, from unavoidable causes, been delayed, and are yet wanting: Be it therefore enacted, That so much of the Proclamation of the 5th day of July 1822,[1] as directs that the English Language shall be used in all Judicial Acts and Proceedings of the several Courts of Justice in this Colony, from and after the 1st day of January 1827, shall be, and is hereby repealed, and declared void, and of no effect; and that it shall and may be lawful to continue to use the Dutch Language in the Proceedings of those Courts where it is now used; anything in the said Proclamation of the 5th day of July 1822, to the contrary notwithstanding.

II. Provided always, and be it hereby enacted, That it shall and may be lawful for the Governor of this Colony, for the time being, by Proclamation to be made and published at any time after the passing of this Ordinance, to direct and order that the English Language be used in the Judicial Acts and Proceedings of all or any of the Courts of Justice in this Colony, at such subsequent period as to him shall seem fit.

GOD SAVE THE KING.

P.R.O., C.O. 50/1.

CREATION OF JUSTICES OF THE PEACE. [11 Dec. 1827.]

No. 32.

No. 72. *Ordinance.*—Of His Honour the LIEUTENANT-GOVERNOR IN COUNCIL, for creating Justices of the Peace in this Colony.

WHEREAS it is expedient for the preservation of the Public Peace, the security of Individuals, and the due execution of the Laws, that Magistrates be appointed in the several Districts of this Colony, with power to apprehend, commit to

[1] *Vide* page 23.

Prison, or hold to Bail, all Vagrants, Rioters, Robbers, or other notorious Offenders, found within their several Jurisdictions, in order that such Offenders may be brought to Trial, and with Power to do all other such Matters and Things as the said Magistrates may by Law be appointed to do: Be it therefore enacted, and it is hereby enacted, That from and after the passing of this Ordinance, it shall and may be lawful for the Governor or Lieutenant-Governor for the time being, from time to time, as occasion may require, to appoint Justices of the Peace, under the Great Seal of the Colony of the Cape of Good Hope, for Cape Town and the District thereof, and the several Country Districts respectively, who shall take and subscribe the Oath of Allegiance, and the Oath of Office, . . . before the Chief Justice, or any Judge of the Supreme or Circuit Courts, or before the Civil Commissioner, or any Magistrate of the District for which such Justice is assigned to act (who are hereby empowered and required to administer the same), and the Clerks of the Peace respectively shall enter in the Records of their respective Districts that the said Oaths were duly administered and taken.

II. And be it further enacted, That from and after the passing of this Ordinance, the Persons who shall be appointed as aforesaid to act as Justices of the Peace, shall have power, and are hereby required, to preserve the Public Peace, and for that purpose to call to their aid and assistance all Field-Cornets, Constables, and Peace Officers, Military Officers, and others His Majesty's Subjects, to quell all Riots, Brawls, or other Disturbances, and to lodge all Rioters, Brawlers, Vagrants, and Disturbers of the Peace, in any Prison within their respective Jurisdictions, to be dealt with according to Law; and they are hereby authorised and required to inquire of all Crimes and Offences committed, or alleged to be committed, within their respective Jurisdictions, and for that purpose to summon and examine upon Oath all Witnesses, touching such Crimes and Offences, and to apprehend and cause to be apprehended, all Criminals and Offenders, and to deal with them according to Law: And the said Justices of the Peace are hereby authorised and required, upon information or complaint, in writing, upon Oath, made to them, or any of them, to cause to come before them all those who have used any Threats towards any Person or Persons, whether regarding their Bodies or the Firing of their Houses, and to require of them sufficient Security for the Peace, or their good behaviour towards His Majesty or His Subjects; and if they shall not give such Security, then to cause them to be safely kept in Prison till they shall find such Security.

[Etc.] *P.R.O., C.O.* 50/1.

CREATION OF OFFICE OF RESIDENT MAGISTRATES.

[19 Dec. 1827.]

No. 33.

No. 73. *Ordinance.*—Of His Honour the LIEUTENANT-GOVERNOR IN COUNCIL, for creating Resident Magistrates and Clerks of the Peace in certain Districts and Places in this Colony.

WHEREAS His Most Gracious Majesty's Charter, for the better and more effectual Administration of Justice in this Colony, bearing date the 24th day of August last, authorizes and empowers the Governor or Lieutenant-Governor, for the time being, of this Colony with the advice of the Council of Government, by any Laws and Ordinances to be from time to time made for that purpose, to erect, constitute, and establish Courts of Request, and other Courts having Jurisdiction in Civil and Criminal Cases within this Colony; provided, that the Jurisdiction of such Civil Courts shall not be extended to any Case wherein the Sum or Matter in dispute shall exceed the amount or value of *Forty Pounds*, Sterling Money, or wherein Title to any Lands or Tenements, or any Fee, Duty, or Office, may be in question, or whereby Rights in future may be bound; and provided also that the Jurisdiction of such Courts in Criminal Cases shall not be extended to any Case wherein any Person may be accused of any Crime punishable by Death, Transportation, or Banishment from the said Colony: And whereas it is expedient that from and after the first day of January 1828, the Courts of Landdrost and Heemraden, and of Landdrost and Commissioned Heemraden in the Subdistricts of Clanwilliam and Beaufort, the Courts of the Residents at Simon's Town, Port Elizabeth, and Port Frances, and the Jurisdiction of the Special Heemraden at Tulbagh, Caledon, and Cradock, should be abolished: And whereas it is necessary that some other provision be made for the Administration of Justice, and for the due Registration and Legalization of Marriage in the said Districts, Subdistricts, Residencies, and Places, in lieu of the said Courts and Jurisdictions . . . Be it therefore enacted by His Honour the Lieutenant-Governor in Council, that from and after the said first day of January 1828, the said several Courts and Jurisdictions shall be abolished, cease, and determine; and that it shall and may be lawful for the Governor or Lieutenant-Governor, for the time being, from time to time, as occasion may require, to appoint, under the Great Seal of the Colony, one Magistrate, who shall be called the Resident Magistrate, for each of the Districts of Stellenbosch, Worcester, Swellendam, George, Uitenhage, Albany, Somerset, Graaff-Reinet, and for each of the Subdistricts of Beaufort and Clanwilliam, for the Residency of

Simon's Town, and for the Township of Port Elizabeth, and to appoint one Clerk of the Peace for such Districts and Places as in his discretion he may think fit.

II. And be it further enacted, That every Person who shall be appointed Resident Magistrate, or Clerk of the Peace, as aforesaid, shall take the Oath of Allegiance and the Oath of Office. . . .

III. And be it further enacted, That the said Resident Magistrates shall have jurisdiction in all Civil Cases within the Districts and Places for which they are appointed respectively, wherein the Sum or Matter in dispute shall not exceed the amount or value of *Ten Pounds* Sterling, and wherein the Title to any Lands or Tenements, or any Fee, Duty, or Office, is not in question, and whereby Rights in future cannot be bound.

IV. Provided always, and be it further enacted, That it shall and may be lawful for any Party who shall think himself aggrieved by the Judgment or Decree of any such Resident Magistrate, to enter into sufficient security to prosecute an Appeal therefrom before the next ensuing Circuit Court which shall be held in the District wherein such Judgment or Decree was given; or if such Judgment or Decree be given in Simon's Town, then before the Supreme Court within twenty-one days: Provided always, and it is further enacted, that no Appeal shall be admitted wherein the Sum or Matter in dispute shall be less than *Forty Shillings* Sterling.

V. And be it further enacted, That the said Resident Magistrates shall have Jurisdiction, without Appeal, in all cases of Crimes and Offences wherein any Person may be accused of any Crime not punishable by Death, Transportation, or Banishment from this Colony: Provided always, that it shall not be lawful for any such Resident Magistrate to punish any Offender in any higher or more severe manner than by Fine, not exceeding the amount of *Five Pounds* Sterling, and Imprisonment, with or without hard labour, for a period not exceeding One Month, or by Whipping privately in Prison; except as to such Crimes or Offences for the commission of which any higher or more severe punishment, whether by Fine or Imprisonment, is or shall be provided, and in which Jurisdiction is or shall be expressly given to the said Resident Magistrates by any special Law or Ordinance.

VI. And be it further enacted, That every Resident Magistrate shall hold a Court, and inquire of all Causes or Actions, whether Civil or Criminal, which shall be brought before him, and of which Jurisdiction is hereby given to him, in the Court Room of his District or Place, on two days of the week at least, and oftener, as occasion may require.

VII. And be it further enacted, That all Sentences, Decrees, Judgments, Writs, Summonses, Notices, Rules, Orders, Warrants, Commands, and other Proceedings of the said Resident Magistrate's Court, shall be made in the English Language; and in all Criminal Cases, the Witnesses against and for any accused Person or Persons, shall deliver their Evidence *viva voce* and in open Court.

VIII. And be it further enacted, That the Clerks of the Peace shall conduct all Public Prosecutions in all cases of Crimes and Offences cognizable and tried by the Courts of the said Resident Magistrates in their respective Districts; and it shall be lawful for the Attorney-General to appoint a competent Peace Officer for the Residency of Simon's Town, and a like Officer for the Township of Port Elizabeth, who shall act as Public Prosecutor, before the Resident Magistrates for the said places respectively.

IX. And be it further enacted, That the said Clerks of the Peace, for their several Districts respectively, shall also conduct all Public Prosecutions, for Crimes and Offences which may be tried at any Circuit Court, to be holden for their Districts respectively, unless in such case or cases where the Attorney-General shall think fit to appoint some other Person.

X. And whereas the abolition of the Courts of Landdrost and Heemraden in the several Districts aforesaid, and of the Jurisdiction of the Special Heemraden at Tulbagh, Caledon, and Cradock, renders it necessary that some provision should be made for the due Registration and Legalization of Marriages: Be it therefore enacted, that from and after the said first day of January 1828, the Resident Magistrate and the Clerk of the Peace, for the several Districts and Places for which they are assigned to act respectively, shall form the Matrimonial Court, or Board, in such Districts and Places, and any Justice of the Peace for the Districts of Worcester, Swellendam, and Somerset, together with the Field-Cornet of the Place, shall form the Matrimonial Court, or Board, at Tulbagh, Caledon, and Cradock, respectively; and all Registrations for Marriage shall be made in the said Courts, and all Certificates of Registration shall be granted by the said Clerks of the Peace, and Justice's Clerks, respectively, in like manner as such Registrations were made, and such Certificates were granted, in the Courts hereby to be abolished.

XI. And be it further enacted, That every Matter and Thing which was necessary to be done and performed for the due Registration and Legalization of Marriage in the Courts hereby to be abolished, shall be required to be done and performed, and shall be of like force and effect in the Courts hereby to be created.

XII. And whereas by virtue of certain Proclamations and Ordinances enacted in times past, certain Crimes and Offences therein set forth, had been made cognizable by the said Courts of Landdrost and Heemraden, and of Landdrost and Commissioned Heemraden, and by the Courts of Deputy Landdrost and Heemraden, and Deputy Landdrost and Commissioned Heemraden, and by the Courts of Residents at Simon's Town, Port Elizabeth, and Port Frances: Be it therefore enacted, that from and after the first day of January 1828, all such Crimes and Offences as are now by any special Law or Ordinance cognizable respectively, by any of the Courts hereby to be abolished, shall become cognizable by the Courts hereby to be created: Provided always, that such Crimes and Offences shall not be punishable by Death, Transportation, or Banishment from the Colony.

SCHEDULE.

FORM OF THE OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear, that I will be faithful, and bear true Allegiance to His Majesty King George. So help me God!

FORM OF THE OATH OF OFFICE.

I, A. B., do promise and swear, that I will faithfully and diligently execute, to the utmost of my Abilities, the several Duties of the Office of Resident Magistrate which has been conferred upon me. So help me God!

GOD SAVE THE KING.

P.R.O., C.O. 50/1.

THE SHERIFF OF THE CAPE COLONY.

[5 Jan. 1828.]

No. 37.[1]

No. 74. *Ordinance.*—Of His Honour the LIEUTENANT-GOVERNOR IN COUNCIL, for declaring and regulating the Duty of the Sheriff of this Colony.

[*Extract.*]

And whereas it is by the . . . Charter [of Justice, dated 24th August 1827] ordered, directed, and appointed, that the . . . Sheriff shall, by himself, or his sufficient Deputies to be by him appointed and duly authorised under his Hand and Seal, and for whom he shall be responsible during his continuance in such Office, execute all Sentences, Decrees, Judgments, Writs, Summonses, Rules, Orders, Warrants, Commands,

[1] Cf. Act No. 17 of 1886, below.

and Processes, of the Supreme Court, or of the Circuit Courts of the said Colony, as therein is mentioned, and shall make a Return of the same, together with the manner of the execution thereof, to the Supreme Court of the Cape of Good Hope, or to the . . . Circuit Courts, as the case may be; and shall receive and detain in Prison all such Persons as shall be committed to the custody of such Sheriff, by the said Supreme Court and Circuit Courts, or by the Chief Justice, or any other Judge of the said Courts: . . . Be it therefore enacted and declared, by His Honour the Lieutenant-Governor in Council, that the said Sheriff shall, immediately after his Appointment, and after having taken the Oaths [prescribed], appoint and depute sufficient Persons and Deputies, to act for him in the execution of the Duties of his said Office, and shall, immediately after such Appointment, cause to be enrolled in the Office of the Registrar of the Supreme Court, the Names and Places of Abode of such his lawful Deputies, and which enrolment shall specify the District within which they are respectively to act for the said Sheriff; . . .

P.R.O., C.O. 50/1.

QUALIFICATION OF JURORS. [4 Feb. 1828.]

No. 41.

No. 75. *Ordinance.*—Of His Honour the LIEUTENANT-GOVERNOR IN COUNCIL, for determining the Qualification of Persons liable to serve on Grand and Petit Juries, and the mode of making out and returning Lists of the same.

. . . Be It Enacted, . . . That from and after the passing of this Ordinance, every Man, except as hereinafter excepted,[1] between the Ages of Twenty-one Years and Sixty Years, residing within the Colony and its Dependencies, who shall have the possession of any Land situated within this Colony, held on Perpetual Quitrent, or on Loan, and for which he is liable to pay an annual Rent of not less than *One Pound Seventeen Shillings and Sixpence*, Sterling; or of Freehold Land of the same annual value; or who shall be liable to pay in Cape Town and the District thereof, a sum of not less than Twenty Shillings Sterling, and in any and every other part of the Colony, a sum not less than *Fifteen Shillings* Sterling, for or on account of Taxes already imposed, or hereafter to be imposed by any Law or Ordinance, shall be qualified, and shall be liable, to serve on Juries, in all Criminal Cases, in the

[1] Judges, clergymen, attorneys, officers of any of the courts of law, physicians, surgeons, apothecaries, and generally men holding offices under the Government are excepted.

Supreme and Circuit Courts; such Cases being triable in the District respectively in which every Man so qualified shall reside.

P.R.O., C.O. 50/1.

No. 76. THE ROYAL CHARTER OF JUSTICE.[1]

[4 May 1832.]

FOR THE BETTER AND MORE EFFECTUAL ADMINISTRATION OF JUSTICE WITHIN THE COLONY OF THE CAPE OF GOOD HOPE.

WILLIAM THE FOURTH, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith,*

To All to Whom these Presents shall come,

GREETING:

WHEREAS it is expedient to make provision for the better and more effectual Administration of Justice in Our Colony of the Cape of Good Hope, and in the several Territories and Settlements dependent thereupon, and for that purpose to constitute within Our said Colony and its Dependencies One Supreme Court of Justice, to be holden in the manner and form hereinafter mentioned: NOW KNOW YE, that WE, of Our Special Grace, certain Knowledge, and mere Motion, HAVE thought fit to grant, direct, order, and appoint, and by these Presents Do accordingly for Us, Our Heirs and Successors, grant, direct, order, and appoint, that there shall be within Our said Colony of the Cape of Good Hope, a Court which shall be called "THE SUPREME COURT OF THE COLONY OF THE CAPE OF GOOD HOPE."

II. AND WE Do hereby create, erect, and constitute the said Supreme Court to be a COURT OF RECORD.

III. AND WE Do further will, ordain, and appoint, that the said Supreme Court of the Colony of the Cape of Good Hope, shall consist of and be holden by and before one Chief Justice and two Puisne Judges, and that the said Chief Justice shall be called and known by the name and style of the Chief Justice of the Colony of the Cape of Good Hope, and which said Chief Justice and Puisne Judges shall be respectively Barristers in England or Ireland, or Advocates admitted to practice in Our Courts of Session in Scotland, or in the said Supreme Court. And which said Chief Justice and Puisne

[1] Issued at the Cape by Governor D'Urban's Proclamation, dated 13 Feb. 1834. It should be compared with the 1827 Charter of Justice which it superseded. There are but few important differences between the two instruments.

Judges shall, from time to time, be nominated and appointed to such their Offices by Us, Our Heirs and Successors, by Letters Patent under the Public Seal of the said Colony, to be issued in pursuance of any Warrants or Warrant to be from time to time for that purpose granted by Us, Our Heirs, and Successors, under Our or Their Sign Manual.

IV. [If a judge's seat becomes vacant the Governor shall make a temporary appointment.]

V. [Judges to hold office during good behaviour. On proof of misconduct, Governor and Council may suspend any one of the judges, but must report to the Secretary of State.]

VI. [The Crown reserves power to confirm or disallow such suspension. Crown also reserves power, upon sufficient proof of misconduct, to suspend any judge.]

VII. [Chief Justice to have precedence next after the Governor, Lieutenant-Governor, and Commander-in-Chief.]

VIII. [Puisne Judges to rank next after the Chief Justice.]

IX. [Puisne Judges to take rank between themselves according to priority of appointment.]

X. [Supreme Court to have and use a Seal.]

XI. [Seal to be kept by the Chief Justice.]

XII. [Each of the judges to receive a salary, beyond which no fees or emoluments may be accepted.]

XIII.[1] [No judge to accept any other office or place of profit in the Colony.]

XIV. [To the Supreme Court shall be attached the office of Registrar or Prothonotary and Keeper of Records, and the office of Master of the Supreme Court. Minor offices to be created by Chief Justice.]

XV. [The Registrar and the Master to be appointed by the Crown; minor officers to be appointed by the Governor.]

XVI. [All officers, except the judges, to hold office during the royal pleasure.]

XVII.–XVIII. [Admission of Barristers or Advocates.]

XIX.–XXIV. [Admission of Attorneys or Solicitors.]

XXV. [Governor shall annually in January appoint a Sheriff, who shall take the oath of office and the oath of allegiance.]

XXVI. [Sheriff to hold office for one year.]

XXVII. [Sheriff and his deputies appointed by him shall execute all sentences, warrants, decrees, etc., of the Supreme Court and of Circuit Courts; and shall detain in prison persons committed by the said Courts or by any of the judges.]

XXVIII. [Sheriff may be reappointed by the Governor.]

XXIX. [If the Sheriff or his near relative is involved in a case, then the court shall appoint a substitute.]

[1] Amended by Act No. 35 of 1904.

XXX. AND WE DO hereby further ordain, direct, and appoint, that the said Supreme Court . . . shall have Cognizance of all Pleas, and Jurisdiction in all Causes, whether Civil, Criminal, or Mixed, arising within the said Colony, with Jurisdiction over Our Subjects, and all other Persons whomsoever residing and being within the said Colony, in as full and ample a manner and to all intents and purposes, as the Supreme Court of Justice now existing within the said Colony now hath or can lawfully exercise the same.

XXXI. [Supreme Court to judge according to laws now in force or hereafter to be made.]

XXXII. AND WE DO FURTHER GIVE AND GRANT to the said Supreme Court, full Power, Jurisdiction, and Authority, to review the Proceedings of all Inferior Courts of Justice within Our said Colony, and, if necessary, to set aside or correct the same; and in the exercise of such Jurisdiction, Powers, and Authorities as aforesaid, Our Will and Pleasure is, that the Pleadings and Proceedings of the said Supreme Court and the Circuit Courts shall be carried on, and the Sentences, Decrees, Judgments, and Orders thereof pronounced and declared, in open Court, and not otherwise, and that the several Pleadings and Proceedings of the said Court shall be in the English Language; and that in all Criminal Cases, the Witnesses against and for any accused Person or Persons shall deliver their Evidence *viva voce*, and in open Court.

XXXIII. [In civil cases, two judges to form a quorum. If such two judges differ in a case, it shall be postponed till a third judge shall be present, when the decision shall be according to the opinion of the majority.]

XXXIV. [Criminal cases to be tried before one or more of the judges and a jury of nine men, who shall concur in every verdict. No person otherwise competent to serve on a jury shall be disqualified by reason of his ignorance of the English Language.]

XXXV. [Duties heretofore performed by the Orphan Chamber, to be performed by the Master of the Supreme Court. Orphan Chamber abolished.]

XXXVI. [Supreme Court to be held at Cape Town.]

XXXVII. [Governor to divide the Colony into convenient districts for holding Circuit Courts.]

XXXVIII. [Circuit Courts to be held in each district by one judge at least twice a year.]

XXXIX. [Circuit Courts to have the same jurisdiction and authority as the Supreme Court. Criminal cases to be tried by circuit judge and a jury of nine. No person to be disqualified from serving on a jury merely by reason of his ignorance of the English Language.]

XL. [If nine men do not appear to try criminal cases the jury may consist of any number not less than six.]

XLI. [Civil suits to be tried by a judge unassisted by a jury. In such suits, if the sum or matter in dispute shall equal or exceed £100, all evidence shall be taken down in writing. If an appeal is allowed, copies of documents shall be made and duly certified.]

XLII. [In civil suits involving less than £100, appeals may be allowed at the discretion of the circuit judge.]

XLIII. [In cases involving more than £100, appeals may be made to the Supreme Court.]

XLIV. [Any Court before which a case may be pending may transfer that case to another Court.]

XLV. [In criminal cases no sentence whereby a person shall be condemned to death or transportation or banishment from the Colony shall be carried out until the execution of the sentence shall have been approved by the Governor.]

XLVI. [Rules of Court to be framed by the Supreme Court and to be, as far as the circumstances of the Colony will permit, in accordance with the rules and forms in use in the Courts at Westminster.]

XLVII. [Rules and laws governing the qualification and attendance of jurors, to be framed by the Governor with the advice of the Legislative Council, subject to the approval or disallowance of the Crown.]

XLVIII. AND WHEREAS it may be expedient to establish within our said Colony Courts of Request, and other Courts having Jurisdiction in Civil Cases of small amount or value,—and in cases of Crimes or Offences not punishable by Death or Transportation: NOW WE DO hereby authorize and empower the Governor, for the time being, of Our said Colony, with the advice of the Legislative Council of Government thereof, by any Laws and Ordinances to be from time to time made for that purpose, to erect, constitute, and establish all such Courts of Request, and other Courts having Jurisdiction in Civil and Criminal Cases, within Our said Colony: Provided that the Jurisdiction of such Civil Courts shall not be extended to any Case, wherein the Sum or Matter in dispute shall exceed the amount or value of Forty Pounds Sterling Money: or wherein the Title to any Lands or Tenements, or any Fee, Duty, or Office may be in question; or whereby Rights in future may be bound: And provided also, that the Jurisdiction of such Courts, in Criminal Cases, shall not be extended to any Case wherein any Person may be accused of any Crime punishable by Death, Transportation, or Banishment from the said Colony.

XLIX. [Supreme Court to frame rules and order for Courts of Request.]

L. [Appeals to the Crown in Council may be made from final sentences, etc. of the Supreme Court, if a case involves an amount exceeding £500 and if Supreme Court allows such appeals.]

LI. [Crown in Council reserves the right to allow and hear appeals upon petition made.]

LII. [Supreme Court shall execute all judgments in appeal pronounced by the Crown in Council.]

LIII. [All Governors, commanders, magistrates, etc. are charged to assist in the execution of all powers hereby granted.]

LIV. [Crown in Council reserves the power to repeal or amend this Charter of Justice.

Letters Patent of 24 August 1827 revoked.]

LV. AND WE do further ordain and direct, that the Governor of Our said Colony of the Cape of Good Hope, upon the arrival therein of these Presents, shall, by Proclamation, notify to the Inhabitants of the said Colony, the time when the Courts hereby established will be open; and as soon as the Judges of the said Supreme Court shall have assumed and entered upon the exercise of their Jurisdiction therein, then, and from thenceforth, the Supreme Court of the Colony of the Cape of Good Hope and the Circuit Courts now established within the same, and the Jurisdiction of the said Courts respectively, shall be absolutely abolished, cease, and determine; and every Suit, Action, Complaint, Matter, or Thing, Civil or Criminal, which shall be depending in such last-mentioned Courts respectively, shall and may be proceeded upon in the Supreme Court instituted under and by virtue of these Presents, or in either of the said Circuit Courts, which shall and may have Jurisdiction within the District or Place in the Colony of the Cape of Good Hope, where such Action or Suit, or other Matter, Civil or Criminal respectively, shall be conducted in like manner, as if such Action or Suit, or other Matter, Civil or Criminal, had been originally commenced in one or other of the said Courts instituted under these Presents. And all the Records, Muniments, and Proceedings whatsoever of and belonging to the said Supreme Court and Circuit Courts established by the said recited Letters Patent, shall from and immediately after the opening of the said Courts respectively instituted by these Presents, be delivered over and deposited for safe custody in such of the said Courts respectively instituted under these Presents, as shall be found most convenient; and all Parties concerned shall and may have recourse to the said Records and Proceedings, as to any other Records or Proceedings of the said Courts respectively.

LVI. AND WE DO hereby further declare and direct, that during the absence from Our said Colony of the Cape of Good Hope of the Governor thereof, or if there shall be no person commissioned by Us, Our Heirs and Successors, to be the Governor of Our said Colony, then, and in every such case, all and every the Powers hereby granted to and vested in the Governor for the time being of the said Colony, shall and may be executed by and vested in the Lieutenant-Governor thereof, or the Officer for the time being administering the Government thereof.

In Witness whereof, We have caused these Our Letters to be made Patent. Witness Ourself at Westminster, the Fourth Day of May, in the Second Year of Our Reign.

By Writ of Privy Seal.

BATHURST.

P.R.O., C.O. 52/6 (*C. of G. Hope Govt. Gazette*, 14 Feb. 1834).

ADMINISTRATION OF INSOLVENT ESTATES.

[24 Oct. 1843.]

No. 6, 1843.

No. 77. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, for Regulating the due Collection, Administration, and Distribution of Insolvent Estates within this Colony.

WHEREAS the Law as contained in the Ordinance No. 64, bearing date the 6th of August 1829, and intituled "An Ordinance for regulating the due collection, administration, and distribution of Insolvent Estates within this Colony," requires certain additions and alterations: And whereas it is expedient, in order that the said additions and alterations may most conveniently be made, that the said Ordinance No. 64 should be repealed, and a new Ordinance enacted in its stead: And whereas it is also expedient, that all Insolvent Estates within this Colony should be, hereafter, administered under one uniform system of law, and, to that end, that the benefit or relief of cession of goods and property, commonly called the *cessio bonorum*, now available to insolvent debtors in this Colony, should be abolished: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance, the Ordinance aforesaid No. 64, and the Publication of the 4th September 1805, respecting transfers, cessions, pledges, and other securities entered into

by debtors within twenty-eight days previous to their insolvency, and so much of Ordinance No. 5, 1842, intituled, "an Ordinance to provide for the lodgment elsewhere than in the Government Discount Bank of this Colony, of certain Monies, now by law required to be lodged in the said Bank," as is, in substance, hereinafter set forth and re-enacted,—and all laws and customs heretofore in force within this Colony, in so far as the same are repugnant to, or inconsistent with, any of the provisions of this Ordinance, shall be, and the same are hereby, respectively repealed. . . .

II. And be it enacted, that it shall and may be lawful for the supreme court, or any circuit court, or for the chief justice of this colony, or any other of the judges of the supreme court, upon the petition, in writing, of any person, setting forth that he is insolvent, and desirous of surrendering his estate for the benefit of his creditors, to direct such person to appear before him, to be examined touching his said insolvency, or to require such other proof thereof, by affidavits of the said insolvent and others, as to the said court or the said judge may seem fit; . . .

V. And be it enacted, that it shall and may be lawful for the supreme or any circuit court, or for the chief justice of this colony, or any other of the judges of the supreme court, upon petition made in writing against any person having committed any act of insolvency, . . . to place the estate of every such person or persons under sequestration, in the hands of the master of the said court, until the same shall . . . be adjudged to be sequestrated, or the said petition shall be discharged.

[Etc.]

P.R.O., C.O. 50/1.

DUTIES OF FIELD-CORNETS. [4 July 1848.]

No. 9, 1848.

No. 78. *Ordinance.*—Enacted by the GOVERNOR OF THE COLONY OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, for regulating the Duties and Remuneration of Field-Cornets.

WHEREAS, owing to the various alterations made from time to time, in the administration of the country districts of this colony, the functions of field-cornets have been considerably narrowed; and it is now expedient to define or describe their duties, and to substitute for the principle of a fixed annual allowance, a remuneration proportioned to the services performed: Be it enacted by the Governor of the Cape of

Good Hope, with the advice and consent of the Legislative Council thereof, that the " Instructions of the Field-Cornets in the several Country Districts," published by the then Governor and Council of this Colony on the 24th October 1805, shall be repealed, except in so far as the same repeal any former placards, ordinances, or customs, and the same are hereby repealed accordingly. Provided always, that the field-cornets and assistant field-cornets shall continue to be appointed as at present.

2. And be it enacted, that from and after the commencement and taking effect of this Ordinance, the several duties belonging to the office of field-cornet shall be the following, that is to say,—

(*a*) He is, by virtue of his office, bound to apprehend without warrant, every person whom he shall have reasonable grounds to suspect of having committed any murder, culpable homicide, rape, robbery, or assault with intent to commit any of those crimes, or assault in which a dangerous wound is given, arson, housebreaking with intent to commit a crime therein; or theft of any cattle, sheep, or goat; or any other crimes of equal guilt with any of those crimes. And he may also take into custody every person whom he shall see engaged in any affray, or whom he shall find attempting to commit a crime, or already manifesting an intention so to do.

(*b*) Whenever it shall be brought to his knowledge that any person, within his ward, has died other than a natural death, namely by violence or accident, or his own act, or the act of God; the field-cornet shall, with all speed, repair to inspect the body, and hold an inquest thereon.

(*c*) The field-cornet will obtain and transmit to the resident magistrate the fullest information respecting the circumstances of any such untimely death, and communicate, at the same time, the result of his own observations.

(*d*) In cases of assault in which any wound, supposed to be dangerous, has been given, the field-cornet will repair to and examine the injured party, and apprise the resident magistrate of the case and its circumstances. . . .

3. [Remuneration of Field-Cornets according to the time spent in performing their duties.]

4. And be it enacted, that from henceforth, the field-cornets shall be deemed and taken to be under the authority

of the resident magistrate of the district, as well as of the civil commissioner of the division.

5. [This Ordinance not to affect former laws imposing duties on Field-Cornets.]

6. [Ordinance to take effect from 1 Jan. 1849.]

P.R.O., C.O. 50/2.

TRIAL BY JURY IN CIVIL CASES, 1854.

I reserve this Bill for the signification of Her Majesty's pleasure.

(Signed) C. H. DARLING, *Lt.-Governor.*

26th Sept. 1854.

No. 7, 1854.[1]

No. 79. *A Bill* for Extending Trial by Jury to Civil Cases.

WHEREAS it is expedient that Trial by Jury in Civil Cases should be introduced into this Colony: And whereas it is fitting that Trial by Jury in Civil Cases should, in the first instance, be limited to Civil Cases depending in the Supreme Court: Be it enacted by the Governor of the Cape of Good Hope, with the Advice and Consent of the Legislative Council and House of Assembly thereof, as follows:

I. So much, if any, of the Letters Patent of His late Majesty King William the Fourth, bearing date at Westminster, the Fourth Day of May, in the second Year of his Reign, and commonly called the "Charter of Justice," and so much, if any, of any other Law or Ordinance heretofore existing in this Colony, as shall be repugnant or inconsistent with any of the Provisions of this Act, shall be repealed, and the same is hereby repealed accordingly.

II. From and after the commencement of this Act, every Question, or Matter of Fact, or of mixed Law and Fact, in dispute between the Parties to any Civil Case depending in the Supreme Court of this Colony shall, except as is hereinafter in the 4th Section provided, be tried by Jury.

III. No Question which shall be a pure and unmixed Question of Law shall be, at any time, or in any case, referred or submitted to a Jury, but every such Question shall be reserved for the determination of the Court.

IV. It shall be competent for the Attorney of either of the Parties to any Civil Case depending in the Supreme Court, at any time after the Pleadings in such Case shall have been closed, to serve a Notice upon the Attorney of the opposite Party, calling upon him to attend before a Judge of the Supreme

[1] Superseded by Act No. 23 of 1891. Cf. Nos. 142 and 164.

Court in Chamber, at some time, to be specified in such Notice, there to settle the Issue or Issues to be tried by Jury: Provided that it shall be competent for the Parties to any such Case, at any time after Pleadings closed, and before the serving by either of them of such Notice as aforesaid, to agree together, in writing, signed by their respective Attorneys, that such Case shall be tried without a Jury, and, thereupon, such Case shall be proceeded with, and be tried in like manner precisely as if this Act never had been passed: Provided, however, that as often as any Facts in dispute in any Case shall be tried by Jury, then all Facts in dispute in the same Case shall be tried by Jury.

V. The Issue or Issues in any such Case as aforesaid, to be tried by Jury, shall, as much as may be, be settled and framed, so as to present separately and successively, and in plain and precise Language, every Matter of Fact affirmed by one Party in the Suit, and denied by the other: Provided that no Issue shall be settled or framed in regard to any Matter or Question not arising upon the Pleadings as pleaded, unless both Parties shall consent thereto, in which Case the Pleadings shall be thereupon amended in such Manner as to put in Issue such Matter or Question.

VI. Whenever, in any Matter or Question which is, in Law, a Matter or Question of Mixed Law and Fact, the Fact shall, in contemplation of Law, be capable of being separated from the Law with which it is mixed, and both Parties shall desire the separation, in the Issues, of the Fact from the Law; such separation may, should the Judge see fit, be made in such manner that the Fact alone shall be submitted to the Jury, and the Law connected therewith shall be reserved for the Court.

VII. As often as any Issue shall be settled or framed for trial by Jury in any Case, in regard to which or the Matter of which either Party shall claim that the other Party may be condemned in Damages, then the Issues in such a Case shall be so settled and framed as to authorize and require the Jury, in case they shall find for the Party claiming such Damages, to assess the said Damages.

VIII. Either Party to any such Case as aforesaid, who shall, before the Judge in Chamber, have objected to the form or substance of any Issue approved of by the said Judge, or who shall, before such Judge, have desired the admission of some Issue which the said Judge shall have refused to admit, may, upon Notice to the opposite Party, move the Supreme Court to review the Decision of the Judge in Chamber regarding any such Issue; and thereupon such Court shall make such Order in the Matter, as Justice shall seem to

require: Provided that any Judge before whom, in Chamber, the settlement of the Issues in any Case shall come, may, of his *own* Motion, refer the settlement of such Issues, or of any of them, to the Supreme Court, and thereupon such Court shall, after hearing the Parties, settle the same.

IX. As soon as may be after the Issue or Issues in any such Case as aforesaid shall have been settled and framed, the same shall be fairly and correctly engrossed by the Attorney, who shall have served the Notice, in the Fourth Section mentioned, to attend before a Judge in Chamber, and such Attorney shall carry the said Issue or Issues, so engrossed, to the Judge before whom, in Chamber, the same shall have been settled, and such Judge shall sign the Engrossment thereof, and thereupon such Attorney shall lodge such Engrossment with the Registrar of the Supreme Court: Provided that as often as all or any of the Issues in any Case shall be finally determined, not by the Judge, but by the Court, then all the Issues in such Case, after being engrossed as aforesaid, shall be signed by the Registrar aforesaid, and not by any Judge.

X. [Certain days shall be set apart for Trials by Jury in the Supreme Court.]

XI. All Trials by Jury in the Supreme Court shall be had before the Chief Justice of the said Court, or before any other of the Judges thereof, and a Jury of Nine Men.

XII. [Cases shall be set down for trial at least 14 days before the day on which they are to be tried.]

XIII. [The Registrar of the Supreme Court shall give notice to the Sheriff that a Jury will be required.]

XIV. [The Sheriff shall then summon 36 jurors of those liable to serve in criminal cases.]

XV. [The manner of summoning jurors to try civil cases shall be the same as for those summoned to try criminal cases.]

XVI. [Persons who do not appear after having been summoned to serve as jurors, shall be liable to a fine not exceeding £25.]

XVII. [If such fine remains unpaid, execution may be sued out by the Attorney-General for the recovery thereof.]

XVIII. [Each of the Parties to a case may strike out from the list of 36 jurors the names of 9 jurors. From the names remaining, 9 jurors shall be selected by lot.]

XIX. [If more cases than one are set down for trial on the same day, then the Parties to each case shall successively have the right to strike out 9 names from the list of jurors.]

XXII. No Challenge to any Man, drawn as aforesaid, to serve as a Juror, shall be allowed, except a Challenge for Cause, and that the Causes for which any such Juror may be challenged, and the manner and form of trying the existence

of any Cause of Challenge alleged against any such Juror, shall be the same, in all respects, as would, by Law, be permitted or prescribed, in a Civil Case depending, and about to be tried, in one of Her Majesty's Courts of Record at Westminster.

XXIII. [The presiding Judge shall administer an oath to the Jury.]

XXIV. [When the Judge shall have summed up the evidence in a case, the Jury may withdraw to consider their Verdict.]

XXV. It shall not be competent for any Jury to deliver their Verdict upon any one or more of the Issues left to them, if more than one, unless they shall at the same time deliver their Verdict on all the Issues so left to them.

XXVI. No fewer than Six Jurors of the Nine Jurors composing the Jury must concur in every Verdict of such Jury, and every Verdict in which not fewer than Six Jurors of the Nine Jurors, *composing* the Jury, shall concur, shall be received and regarded as the Verdict of such Jury: Provided that no Verdict except one in which the whole of the Jurors composing the Jury shall concur, shall be capable of being delivered or received until after the Jury shall have been in deliberation upon their Verdict for not less than One Hour.

XXVII. [The Judge may adjourn the Court from time to time and the Jurors shall be bound to attend on the resumption of the Court's business after adjournment.]

XXVIII. [The Verdict of the Jury may be either a general Verdict or a special Verdict.]

XL. [Appeals to Her Majesty in Her Privy Council allowed.]

XLIII. This Act shall commence and take effect from and after the promulgation thereof. *P.R.O., C.O.* 50/3.

RESIDENT MAGISTRATES. [4 June 1856.]
No. 20 of 1856.

No. 80. *An Act.*—For amending and consolidating the Laws relative to the Courts of Resident Magistrates.

WHEREAS it is expedient to amend and consolidate the laws relative to the courts, jurisdiction, powers, and duties of the resident magistrates within the colony: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. Courts of resident magistrates[1] shall be, and the same

[1] The attainments required of magistrates as regards education and experience, as also the qualifications demanded for other civil servants, are set forth in Act No. 32 of 1895, not printed in this volume.

are hereby declared to be, erected, constituted, and established for and within each of the following districts, that is to say,—Cape Town and the district thereof, Wynberg, Simon's Town, Malmesbury, Piketberg, Stellenbosch, the Paarl, Worcester, Tulbagh, Clanwilliam, Swellendam, Riversdale, Caledon, Beaufort, George, Aliwal, Uitenhage, Port Elizabeth, Albany, Fort Beaufort, Bathurst, Stockenstrom, Somerset, Victoria, Fort Peddie, Albert, Queenstown, Graaff-Reinet, Richmond, Cradock, Colesberg, East London, Alexandria, Prince Albert, Victoria (West), Bredasdorp, Calvinia, Middelburg, Aliwal (North), Oudtshoorn, and Namaqualand; and the said courts shall be respectively holden by and before the resident magistrates for the districts aforesaid.

II.–IV. [Establishment of courts and the limits of magistracies by proclamation.]

V. [Resident magistrates to be appointed by the Governor.]

VII. The courts of the resident magistrates aforesaid shall be respectively courts of record, and the pleadings and proceedings of the said courts shall be carried on, and the sentences, decrees, judgments, and orders thereof pronounced and declared in open court, and not otherwise; and the several pleadings and proceedings of the said courts shall be in the English language; and in all criminal cases the witnesses against and for any accused person or persons shall deliver their evidence *viva voce*, and in open court.

VIII. Every resident magistrate of the colony shall have, in all civil cases brought or instituted against any person residing within the district for which such resident magistrate shall have been appointed, the jurisdiction following, that is to say,—

1. In all cases founded upon any bill of exchange, promissory note, good-for, or other written acknowledgment of debt, commonly called a liquid document, in which the sum demanded shall not exceed forty pounds sterling.
2. In all cases (except as hereinafter is excepted) in which the debt or damages demanded shall not exceed twenty [1] pounds sterling.
3. No such magistrate shall have jurisdiction in, or cognizance of, any action or suit wherein the title to any lands or tenements, or the title to any fee, duty, or office is in question, or any action or suit to try the validity of any will, or other testamentary instrument, or any action or suit whereby rights in future can be bound. . . .

IX.–XV. [Jurisdiction in matters of ejectment, recovery of debts, attachment of goods, etc.]

[1] Changed to "fifty" by Act No. 34 of 1909.

XVI. [A decree of civil imprisonment may be granted where a debtor has not sufficient moveable property to meet an award made to a plaintiff by the court.]

XVII.–XXXII. [Arrest, imprisonment, arrest of goods in security for rent, etc.]

XXXIII. It shall and may be lawful for any person, being a party to any civil suit or action depending in the court of any resident magistrate within this colony, to appeal against any final judgment, decree, or sentence of such court . . . to the supreme court; or to the circuit court which shall next be holden for the district of such resident magistrate. . . .

XLII. The resident magistrates of the colony shall, respectively, have jurisdiction, without appeal or review, in all cases of crimes and offences wherein any person may be accused of any crime or offence not punishable by death, transportation, or banishment from this colony. . . .

XLIII. It shall not be lawful for any court of resident magistrate, in any case, to sentence or adjudge any female to receive personal correction, or to hard labour on any road, street, or public place.

XLIV. [Crimes commenced in one district and completed in another are triable by the magistrate of either district.]

LVIII. [The Letters Patent commonly called the Charter of Justice, as far as repugnant, is repealed, as also various ordinances.]

LIX. [Rules, orders, and regulations for procedure before the Courts of Resident Magistrate, dated 22nd March 1828, are hereby repealed, and others are enacted.]

LX. [Interpretation clause.]

LXI. This Act shall commence and take effect from and after the promulgation thereof.

P.R.O., C.O. 50/3.

THE EASTERN DISTRICTS COURT ESTABLISHED.

[26 July 1864.]

No. 21 of 1864.

No. 81. *Act.*—For adding to the Number of Judges of the Supreme Court, and for other purposes.[1]

WHEREAS it has been found that the number of Judges of which the Supreme Court, as at present constituted, is insufficient to enable the said Judges to hold Courts in the several districts of this Colony as frequently as the wants of the inhabitants require: And whereas, in order to remedy

[1] Cf. further Acts No. 35 of 1896, No. 35 of 1904, and No. 9 of 1905, not printed in this volume.

these evils, and to afford, at the same time, to the inhabitants of the Eastern Districts of this Colony the benefit of a local Court, it is expedient to add to the number of the Judges of the said Supreme Court, and to enable certain of the Judges to form a separate Court, having jurisdiction over the said Eastern Districts, but so, however, as not to interfere with the jurisdiction of the said Supreme Court over every part and portion of the entire Colony: Be it enacted . . . as follows:

I. [Repugnant laws repealed.]

II. The Supreme Court aforesaid shall henceforth consist of one chief justice and four puisne judges.

III. It shall be lawful for the Governor to appoint, provisionally, until Her Majesty's pleasure be known, the puisne judge at present required to complete the number aforesaid of four puisne judges.

IV. Such judge shall be appointed in manner and form as by the fourth section of the Charter of Justice directed, in regard to the appointment of fit and proper persons to supply such vacancies in the office of judge, as are in the said section mentioned.

VII. A court of justice is hereby established in and for the several districts named in the Schedule to this Act, to have and exercise such jurisdiction as is hereafter specified, and such court shall be called "the Court of the Eastern Districts of the Cape of Good Hope."

VIII. The said last-mentioned court shall consist of, and be holden before, any two of the puisne judges of the Supreme Court, whom the Governor shall from time to time assign for the purpose.

IX. The Court of the Eastern Districts hereby created shall have, throughout the districts within and for which it is established, a jurisdiction concurrent with that of the Supreme Court in and over all causes arising, and persons residing and being, within the said districts.

XXIII. In the Court of the Eastern Districts, one judge thereof shall be competent to execute all and every the powers, authorities, and jurisdictions by this Act granted to or vested in the said court. . . .

XXIV. [In case of difference of opinion on matters heard by two judges, causes may be removed to the Supreme Court.]

XXV. [In civil suits appeal may be had to the Supreme Court.]

XXXVI. [Attorney-General or Solicitor-General, if one is appointed, shall prosecute. Attorney-General may appoint a person to prosecute. Solicitor-General (when appointed) to possess the powers conferred on Attorney-General in regard

to criminal cases. Solicitor-General to be appointed by the Queen, but Governor may appoint provisionally.]

XXXVII. [Holding of usual circuit courts not prevented.]

XXXVIII. [Appeal from circuit courts to be direct to Supreme Court; but causes may be referred from Circuit to Eastern District Court by consent of parties or by order of presiding judge.]

XLIII. This Act may be cited for all purposes as "The Administration of Justice Act, 1864.

Schedule: Albany, Albert, Alexandria, Aliwal North, Bathurst, Bedford, Colesberg, Cradock, Fort Beaufort, Graaff-Reinet, Hopetown, Humansdorp, Middelburg, Murraysburg, Peddie, Port Elizabeth, Queenstown, Richmond, Stockenstrom, Somerset, Uitenhage, Victoria East.

P.R.O., C.O. 50/4.

SPECIAL JUSTICES OF THE PEACE.

No. 10 of 1876.

No. 82. *Act.*—To improve the Administration of Justice in places distant from a Seat of Magistracy. [Assented to 4th July 1876.]

WHEREAS it is expedient that facilities should be given for the trial of certain offences committed at places distant from the seat of a resident magistrate: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. It shall be lawful for the Governor from time to time to appoint any person whom he may think proper to act as a special justice of the peace under this Act within such local limits as may be fixed and determined by him, not being within ten miles of the office of any resident magistrate.

II. Every such special justice of the peace shall have and enjoy, and be at liberty to exercise, within the limits so fixed and determined as aforesaid, over and in respect of any person committing within such limits any of the offences following, that is to say:

(A) Assault, where no dangerous wound is given and no dangerous weapon is used.

(B) Thefts of any property not being a horse, mare, gelding, colt, filly, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, or ostrich, and not exceeding in value the sum of two pounds sterling.

(C) Attempt to commit either of the above offences, or being accessory to the commission thereof.

(D) Receiving stolen goods (not being anything excepted in clause B, and not exceeding in value the sum of two pounds sterling), knowing them to have been stolen.

(E) (F) (G) (H) [Contravention of any municipal regulation, of certain police regulations, of rules regulating the sale of spirituous liquors and of laws relating to passes, contracts of service, etc.]

the same jurisdiction, power, and authority as if he were the resident magistrate of the district in which the offence then under investigation was committed, [but only minor punishments may be inflicted by such special justice of the peace.]

IX. [Proceedings in cases summarily adjudicated to be forwarded to Registrar of Supreme or Eastern Districts Court, as the case may be, to be confirmed or altered or reversed.]

XIV. This Act may be cited for all purposes as "The Better Administration of Justice in Criminal Cases Act, 1876."

P.R.O., C.O. 50/6.

THE HIGHER COURTS OF JUSTICE.

No. 5 of 1879.[1]

No. 83. *Act.*—To increase the Efficiency of the Court of the Eastern Districts, and to Improve the Administration of Justice generally. [Assented to 8th September 1879.]

WHEREAS it has been found expedient to add to the number of judges constituting the court of the eastern districts, and to make provision for appeals from the said court and from the circuit courts, and to establish a court of criminal appeal for the Colony: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the advice of the Legislative Council and House of Assembly thereof, as follows:

I. [Repugnant statutes repealed.]

II. [Supreme Court to consist of chief justice and five puisne judges.]

III. The court of the eastern districts shall consist of and be holden by, and before, three of the puisne judges of the supreme court, of whom one, to be called the judge president, and who shall be nominated and appointed by the said Governor, shall be a judge of the court of appeal hereinafter mentioned, and the two others shall not be judges of the said court of appeal. . . .

IV. Every judge who shall be assigned and appointed to the office of judge president of the eastern districts court shall

[1] Superseded by Act No. 35 of 1896.

be entitled to hold the said office so long as he shall continue to be a judge of the supreme court.

V. [When a case is heard by two judges and they differ, the case is to be suspended until three judges shall be present.]

VI. From and after the taking effect of this Act there shall be in this Colony a court of appeal, to be called " The Court of Appeal of the Cape of Good Hope." . . .

VII. The said court of appeal shall be a superior court of record, and shall consist of the chief justice of the Cape of Good Hope, the judge president of the eastern districts court, and two other puisne judges of the supreme court, who shall be thereto duly assigned and appointed by the Governor, acting by and with the advice of the executive council.

VIII. Every judge who shall be appointed to the office of judge of the court of appeal shall hold such office so long as he shall continue to be a judge of the supreme court.

XI. It shall be lawful for any person being a party to any civil suit in the eastern districts court, or in any circuit court, to appeal to the said court of appeal against any judgment, decree, or order of such eastern districts court or circuit court; . . .

XII. The forty-second and forty-third sections of the charter of justice, and the twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth sections of Act No. 21 of 1864 are hereby repealed.

XVIII. [Judges of appeal court to frame rules for that court.]

XX. An appeal to Her Majesty the Queen shall be allowed by such court of appeal against any final judgment, decree, or order thereof in any civil suit or action in which an appeal is now allowed, and the fiftieth, fifty-first, and fifty-second sections of the charter of justice shall apply, *mutatis mutandis*, to every appeal from the said court of appeal, precisely as if such court of appeal were the supreme court in the said charter mentioned.

XXII. The judges of the said court of appeal, or any three of them, shall likewise constitute a court of appeal in criminal cases, and appeals shall be allowed to the said court of appeal [in certain specified instances].

XXIX. This Act shall take effect when and so soon as the Governor, with the advice of the Executive Council, shall, by proclamation published in the *Government Gazette*, declare that the same is in force.

XXX. This Act may be cited for all purposes as " The Administration of Justice Amendment Act, 1879."

P.R.O., C.O. 50/6.

ADMINISTRATION OF JUSTICE IN GRIQUALAND WEST.

No. 12 of 1880.[1]

No. 84. *Act.*—To amend in certain respects Act No. 39 of 1877 and Act No. 5 of 1879. [Assented to 29th July 1880.]

WHEREAS it was provided by Act No. 39 of 1877 that, from and after the annexation of the province of Griqualand West to the colony of the Cape of Good Hope, the supreme court of the said colony shall consist of one chief justice and five puisne judges, the recorder of Griqualand West being one of them: and whereas it was further provided by the said Act that appeals from the decisions of the high court of Griqualand West, or of any circuit court within the said province, shall be made in the first instance to the supreme court of this colony, and that appeals from the land court of Griqualand West may, by consent of parties, be removed into the said supreme court: and whereas by the subsequent Act No. 5 of 1879, it was provided that the supreme court shall consist of one chief justice and five puisne judges, the said recorder not being included among the said five judges: and whereas by the said last-mentioned Act, a court of appeal in criminal as well as in civil cases was established in respect of decisions of the eastern districts court, and from the circuit courts of this colony, and certain provisions were made in respect of the mode of procedure to regulate such appeals: and whereas it is expedient in view of the future annexation of the said province to the said colony that the said first-mentioned Act should be amended in such a manner as to provide one and the same court of appeal for the united colony, to render the mode of procedure in all appeals uniform, and in other respects to make the provisions of the first-mentioned Act consistent with Act No. 5 of 1879: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. So much of the Royal Letters Patent, commonly called the "Charter of Justice," of the Act No. 39 of 1877, of the Act No. 5 of 1879, and of any other law in force in this colony at the time of the taking effect of this Act, as shall be repugnant to or inconsistent with the provisions of this Act, shall be, and the same is hereby repealed.

II. From and after the annexation of the said province to the said colony, the supreme court of the said colony shall

[1] Repealed by Act No. 35 of 1896, which gave to the Eastern Districts Court jurisdiction over all causes arising in Griqualand West.

consist of one chief justice and six puisne judges instead of five as heretofore, the additional judge being the recorder for the time being of Griqualand West.

III. In lieu of any right of appeal which may, under and by virtue of the 10th and 11th sections of the said Act No. 39 of 1877, exist at the time of such annexation as aforesaid to the supreme court of this colony, such appeal shall be made, in the first instance to the court of appeal of this colony instead of the said supreme court, and all and singular the provisions of the said Act No. 5 of 1879, contained in the sections numbered eleven to twenty-nine inclusive, shall apply, *mutatis mutandis*, to the said high court, precisely as if the said high court had been therein mentioned instead of the eastern districts court.

[Etc.]

P.R.O., C.O. 50/6.

MARRIAGE LICENSES. [14 June 1882.]

No. 9 of 1882.

No. 85. *Act.*—To regulate the Issue of Licenses for the Solemnization of Marriages, and to Abolish Matrimonial Courts.

II. [Courts of Resident Magistrates substituted for Matrimonial Courts.]

III. [Magistrates may grant marriage licenses.]

[Etc.]

P.R.O., C.O. 50/7.

THE DUTCH LANGUAGE IN THE COURTS OF LAW. [Promulgated 25th July 1884.]

No. 21 of 1884.

No. 86. *Act.*—To sanction the use of the Dutch Language equally with the English in Courts of Justice.

WHEREAS it is expedient to afford facilities for the use of the Dutch language equally with the English in courts of justice and in legal proceedings: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

1. Notwithstanding anything contained in the Charter of Justice or in the Act No. 20 of 1856, or in any other statutory enactment having the force of law in the colony, the judges of the superior courts of justice may, and resident magistrates, special justices of the peace, and field-cornets shall, allow the use of the Dutch language equally with the English language

at the hearing of any suits, cases, or enquiries, civil or criminal, in their respective courts when requested so to do by any of the parties to such suits or other proceedings; and upon such allowance it shall be lawful for either of the parties to such suits, cases, or other proceedings, or their respective counsel, attorneys, or agents to use either the English or Dutch language in the conduct of their cases before such courts.

2. Whenever any divisional council shall by a majority of its members, resolve at a meeting duly convened for that purpose; or whenever no fewer than one-third of the voters registered for parliamentary elections in any division shall in writing, by petition, apply to the Governor to order the issuing of summonses, notices, and documents referred to in any summons, in all suits brought in any of the courts within such division, in the Dutch as well as in the English language, it shall be lawful for the Governor in either of the cases beforementioned by proclamation in the *Gazette* to grant such order.

3. This Act may be cited as "The Dutch Language Judicial Use Act, 1884."

P.R.O., C.O. 50/7.

THE LAW RELATING TO JURORS.

[Promulgated 7th August 1885.]

No. 17 of 1885.[1]

No. 87. *Act.*—To amend the Law relating to Jurors.

WHEREAS it is provided by the sixteenth section of Ordinance No. 84, that no person shall be put on trial on any indictment at any criminal session of the Supreme Court unless the bill of such indictment shall first have been presented to a Grand Jury, and shall have been returned by them a true bill: and whereas this provision does not extend to criminal trials other than those in the Supreme Court, and has been found in practice to be inconvenient and unnecessary in the Supreme Court: and whereas it is expedient to amend the law relating to giving publicity to jurors' lists: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice of the Legislative Council and House of Assembly thereof, as follows:

1. The sixteenth and seventeenth sections of the said Ordinance No. 84 and all other laws or rules of court relating to the attendance and service of grand juries at the criminal sessions of the Supreme Court, are hereby repealed: Provided that nothing herein contained shall be deemed to dispense

[1] Cf. "The Jury Act," No. 22 of 1891 below, and Act No. 35 of 1904, not printed.

with the necessity of lists of grand jurors being made out as heretofore for the purpose of selecting juries in civil cases as provided by Act No. 30 of 1874, or to alter the law which renders grand jurors whose names appear in such list liable to serve as petty jurors in the Supreme Court.

2. So much of the seventh section of the said Ordinance as requires that a copy of the jurors' list shall annually be affixed to the principal door of every church, chapel, or other place of public worship in a certain portion of such district, shall be and is hereby repealed.

3. This Act may be cited as the "Jurors' Law Amendment Act, 1885."

P.R.O., C.O. 50/7.

APPEAL COURT AND SHERIFF'S DUTIES ACT.

[Promulgated 29th June 1886.]

No. 17 of 1886.[1]

No. 88. *Act.*—To amend the Law relating to Appeals and Duties of the Sheriff, and to make more convenient provision regarding Legal Process in certain Cases.

[Preamble.]

1. From and after the passing of this Act the Court of Appeal shall cease to exist, and all and singular the powers, duties, and authorities conferred upon the said Court of Appeal by Act No. 5 of 1879, Act No. 40 of 1882, or any other Act of Parliament, shall be vested in the Supreme Court of the Colony.

2. [Appeals to the Supreme Court to be heard before not less than three Judges, one of whom shall be the Chief Justice of the Colony.]

3. [Puisne Judges assigned to the Supreme Court to remain so.]

4. In case any appeal shall be heard before the Supreme Court against the unanimous judgment of the full Eastern Districts Court or High Court of Griqualand, such judgment shall be affirmed unless three or more of the Judges sitting in appeal shall concur in reversing or varying the same.

5. It shall be lawful for the prosecutor or defendant in any criminal suit, which shall be brought in appeal or review before the Eastern Districts Court, High Court of Griqualand, or any Circuit Court, from any inferior court, to appeal to the Supreme Court against the judgment of the said Eastern Districts Court, High Court of Griqualand, or Circuit Court, as the case may be. . . .

[1] Cf. Act No. 35 of 1896, not printed.

6–12. [Provisions for the seizing and sale of property by the Sheriff in execution of a decree of court.]

13. [Judges of Supreme Court may make rules and orders for Courts of Resident Magistrates.]

14. The following shall be added as a proviso to the second section of Act No. 21 of 1884: "Provided, however, that if it shall appear to the officer issuing any such process as aforesaid, either from his personal knowledge or otherwise, that the person upon whom the same is intended to be served is sufficiently acquainted with the English language to understand the purport of such process, or is not sufficiently acquainted with the Dutch language to understand the purport of such process if it be drawn in the Dutch language, then it shall not be necessary to issue such process in the Dutch language as well as the English language."

15. This Act may be cited as the "Appeal Court and Sheriff's Duties Act, 1886."

P.R.O., C.O. 50/7.

THE DUTCH LANGUAGE JUDICIAL USE AMENDMENT ACT.

[Promulgated 17th August 1888.]

No. 15 of 1888.

No. 89. *Act.*—To amend "The Dutch Language Judicial Use Act, 1884."

Be it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:

1. In addition to the proviso set forth in the fourteenth section of the Act No. 17 of 1886, there shall be added the following proviso to the second section of Act No. 21 of 1884: "Provided, further, that if it shall appear to the officer issuing any such process as aforesaid, either from his personal knowledge or otherwise, that the person upon whom the same is intended to be served is sufficiently acquainted with the Dutch language to understand the purport of such process if drawn in that language, or is not sufficiently acquainted with the English language to understand the purport of such process if it shall be drawn in the English language, then it shall not be necessary to issue such process in the English language, but issue thereof in the Dutch language shall, for all legal purposes, and notwithstanding anything to the contrary contained in any law in force in this Colony, be good, valid, and effectual."

2. This Act may be cited as "The Dutch Language Judicial Use Amendment Act, 1888."

P.R.O., C.O. 50/7.

THE JURY ACT, 1891. [December 1, 1891.]

No. 22 of 1891.

No. 90. *Act.*—To consolidate and amend the Law relating to Juries.

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

1. The laws mentioned in the Schedule to this Act, and so much of any other law as shall be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Qualification of Jurors.

2. Every man residing within the Colony between the ages of twenty-one years and sixty years who shall possess the qualification in this Act provided, and not therein declared disqualified or exempted, shall be qualified and liable to serve as a juror.

3. Every man between the ages aforesaid who shall be the owner or occupier of any immovable property of the value of not less than three hundred pounds according to the valuation roll of any Divisional Council or Municipality, or shall be in the receipt of salary or wages amounting to not less than one hundred and fifty pounds per annum, and who shall not be disqualified or exempted by the terms of this Act, shall be qualified and liable to serve as a juror on any jury empanelled for any trial or enquiry within the jury district in which such person shall reside.

4. When any such property shall be jointly occupied by more persons than one, each of such joint occupiers, if otherwise qualified or liable, shall be qualified and liable to serve as a juror as aforesaid in case the value of such property, when divided by the number of such joint occupiers, shall give a sum not less than three hundred pounds for each such occupier.

5. [When no valuation roll exists, the person making the jury lists shall estimate the value of properties.]

Special Jurors.

6. Every man qualified and liable to serve as a juror shall also be qualified and liable to serve as a "special juror" in case he shall be

(1) The owner of landed property of the assessed value of one thousand pounds; or

(2 The occupier of such property as tenant of the assessed value of one thousand five hundred pounds; or

(3) Although neither the owner nor occupier of landed property of such assessed values as aforesaid, if he shall be described in the jury lists as an architect, a civil engineer, a broker, manager of a bank, manager or secretary of a fire or life assurance company or society, or of any company for the administration of estates, or be in the receipt of salary amounting to five hundred pounds per annum.

7. No person qualified as a "special juror" shall (unless otherwise exempted) be on that account exempted from serving on a petit jury.

DISQUALIFICATION OF JURORS.

8. The following persons shall not be qualified to serve as jurors in any court or on any occasion:

(1) Any one who is not a natural-born or naturalized subject of Her Majesty;

(2) Any one who has been convicted of and sentenced for treason, murder, rape, theft, fraud, perjury, forgery, fraudulent insolvency, or contravention of the diamond-trade laws, unless he shall have received a free pardon.

(3) Any one who cannot read and write.

EXEMPTIONS.

9. The following persons shall be exempt from serving as jurors, and their names shall not be inserted in any jury list:

(1)–(6) [Those classes of men mentioned in Ord. 41 (4 Feb. 1828), footnote (No. 75).]

(7) All schoolmasters and school inspectors;

(8) All masters of vessels and pilots;

(9) All persons continuously employed in the working of any railway or tramway;

(10) All persons actually engaged as editors of, or reporters for, newspapers.

JURY DISTRICTS.

10. Every area within a radius of thirty-six miles from the court-house of the Resident Magistrates respectively of Grahamstown, Kimberley, and every other town where a circuit court is to be held, and within the judicial district in which such town is situated, shall be deemed to be a "jury district." And in regard to Cape Town, an area within a radius of twenty miles from the court-house of the Resident Magistrate of Cape Town, shall be deemed to be a "jury

district" although such area shall include portions of more judicial districts than one.

11. [Any "jury district" of 36 mile sradius in which there are not 54 qualified persons shall be extended to a radius of 48 miles.]

JURY LISTS.

12. The jury lists in use at the taking effect of this Act shall continue in force and be used until new jury lists are made and revised as in this Act is provided.

13. On or before the 1st day of January in the next and every succeeding year, the Resident Magistrates respectively of every district which includes any such "jury district" as aforesaid, shall, by written order, require the field-cornets or any members of the police force who may be assigned for such duty, to prepare in alphabetical order a true list or return of all men residing within the limits mentioned in such order, qualified and liable to serve as jurors or special jurors.

14. [Each such field-cornet or member of police shall make out such list and deliver it to the Resident Magistrate not later than the 20th January.]

15. [The persons making out the lists shall each year be supplied with the previous year's lists.]

16. For the purpose of preparing such lists the field-cornets or other persons engaged in their preparation may put such questions as they think proper, relating to the said lists, and to the name and surname, place of abode, calling, business, occupation, qualification, or age of any man residing in any jury district.

17. [Every person making out the lists shall have access to the valuation roll of any Divisional Council or Municipality.]

18. [The Magistrate receiving the lists shall cause a true list to be made out for his "jury district" and shall mark the word "special" against the names of such persons as are qualified to serve as special jurors.]

19. [A copy of the list shall be affixed to the door of the court-house with a notice stating that a court will be held to revise the list.]

20. [If there is no jury list for the year, the list of the previous year shall be used.]

COURT OF REVISION OF JURY LISTS.

21. On the day and at the place appointed in the notice aforesaid, the Resident Magistrate shall hold a court, consisting of himself as president, and such members of the Divisional Council (if any) as may attend, for revising the

jurors' lists, but if after fifteen minutes of the time appointed no member of the Divisional Council is in attendance the Resident Magistrate may act alone.

22. The decisions of the said court shall be by majority of the votes of those attending, and if there be an equality of votes, the Resident Magistrate presiding shall have a casting vote in addition to his vote as a member of the court. When no member of the Divisional Council attends, the decision of the Resident Magistrate shall be the decision of the said court.

23. [Lists to be produced at court.]

24. [Court may strike out names on the list.]

25. [Court may correct errors in the lists.]

26. [After the lists are revised they shall be sent to the Sheriff of the Colony.]

JURORS' BOOKS.

27. [The Sheriff shall cause a Jurors' Book to be kept for each district in which shall be copied the names of jurors.]

SPECIAL JURY IN CRIMINAL CASES.

28. The Supreme Court, Court of the Eastern Districts, or High Court of Griqualand, within the jurisdiction of such courts respectively, may on application made on behalf of Her Majesty, or by any private prosecutor entitled to prosecute, or by or on behalf of any defendant or person committed for trial for any indictable offence (whether the indictment or information shall have been served upon the accused or not), order that the trial of the accused named in such order shall be by a special jury in such courts, respectively, or in any Circuit Court.

29. Whenever a criminal case has been ordered to be tried before a special jury, the Registrar of the Court granting such order shall forward a notice to the Sheriff, or his deputy in the district in which the trial is to be held, informing him thereof.

30. [The Sheriff or his deputy shall thereupon draw the names of 27 special jurors.]

31. [The prosecutor or his agent and the defendant or his attorney shall then be entitled to strike out four names each from the list of 27.]

32. [If the parties do not appear, the Sheriff shall reduce the list to 19.]

33. The persons whose names are not struck out shall be summoned to attend for the trial.

SUMMONING JURORS.

34. [The Sheriff or his deputy shall summon the juries for criminal sessions ten days before the trial and for civil cases

seven days before the trial. The number summoned shall not exceed 27.]

35. [The mode of summoning juries.]

36. [The officer summoning jurors shall make a return to the Registrars of the Courts stating the manner of serving such summons.]

DRAWING NAMES OF JURORS FOR SERVICE.

37. [Mode of drawing names of jurors to be summoned and directions to be observed.]

38. [Sheriff to give notice of drawing, which is to be done publicly.]

MISCELLANEOUS PROVISIONS.

39. [Verdict not invalid by reason of disqualification of any juror or error in jury lists.]

40. [Jurors to be sworn.]

41. [They need not be sworn for each trial.]

42. [The court may allow an affirmation to be made.]

43. [If nine qualified men do not attend, the court may call upon other qualified men present in the court-house or in the town.]

44. [Jury to be kept apart by themselves till the judge has summed up, and if they then wish they can retire in charge of an officer of court.]

45. [In case of death or grave bodily or mental infirmity of a jury, the Court may coempanel another jury.]

PENALTIES.

46. [Penalty for corruptly influencing jurors.]

47. [Every person, who, after being duly summoned, does not attend to serve shall be liable to such fine as the court may think fit.]

48. [Any person making a false claim of exemption shall be liable to pay a fine of not more than £50.]

49. [If the Sheriff or his deputy takes a reward for illegally exempting any person, he shall be liable to a fine not exceeding £100.]

50. [Penalty on field-cornets and other officers for various acts.]

51. [Any person removing or defacing a jury list posted up on the door of a court-house is liable to a fine not exceeding £5.]

52. [Penalty for refusing to answer any question allowed by section 16 not to exceed £2.]

53. [The judge may remit fines imposed on a juror for default.]

54. [If a fine is not paid the Registrar shall issue a writ.]

55. This Act may be cited for all purposes as the "Jury Act, 1891."

SCHEDULE.

LAWS REPEALED.

No. and Year.	Title of Law.
Ord. No. 84, 1831 .	"For altering and amending the Law relative to the qualification of persons liable to serve on Grand and Petit Juries, and to the mode of making out and returning lists of the same."
Ord. No. 1, 1843 .	"For amending the Law relative to the qualification of Jurors."
Act No. 7, 1861 .	An Act to amend the Law relating to Grand and Petit Jurors.
Act No. 2, 1876 .	An Act to amend the Law relating to the making out of lists of Jurors.
Act No. 17, 1885 .	Act to amend the Law relating to Jurors.
Ord. No. 14, 1876 .	Ordinance to amend the Laws regulating the qualifications of Jurors in the Province of Griqualand West.
The Rules of Court numbered respectively 43, 44, 45, 46, 49, 51, 52, 275, 350, 360.	

C. of G. Hope Statutes 1652–1905, p. 2876.

CHAPTER II.

NATAL.

SECTION A.

CENTRAL GOVERNMENT.

BRITISH RESIDENTS IN NATAL.

No. 91. *Treaty* between the BRITISH RESIDENTS at Port Natal and DINGAAN, KING OF THE ZULUS. [6 May 1835.]

1. Dingaan, from this period, consents to waive all claim to the persons and property of every individual now residing at Port Natal, in consequence of their having deserted from him, and accords them his full pardon. He still, however, regards them as his subjects, liable to be sent for whenever he may think proper.

2. The British residents at Port Natal, on their part, engage for the future, never to receive or harbour any deserter from the Zulu country, or any of its dependencies; and to use every endeavour to secure and return to the King every such individual endeavouring to find an asylum among them.

3. Should a case arise in which this is found to be impracticable, immediate intelligence, stating the particulars of the circumstance, is to be forwarded to Dingaan.

4. Any infringement of this treaty on either part invalidates the whole.

Done at Congella, this Sixth Day of May 1835, in presence of—

UMTHELLA } *Chief Indunas and Head Councillors of the Zulu nation.*
TAMBOOZA }
Mr. GEORGE CYRUS, *Interpreter.*

Signed on behalf of the British Residents at Port Natal,
(Signed) ALLEN F. GARDINER.

Parl. Papers, S. Africa, C.O. (42), 1884, p. 5.

THE GREAT TREK FROM THE CAPE COLONY.

No. 92. *Manifesto* of the EMIGRANT FARMERS.

[From the *Grahamstown Journal* of 2 Feb. 1837.]

A document has been handed to us, with a request to give it publicity, purporting to be the causes of the emigration

of the colonial farmers, of which the following is a literal translation:

Numerous reports having been circulated throughout the colony, evidently with the intention of exciting in the minds of our countrymen of prejudice against those who have resolved to emigrate from a colony where they have experienced, for so many years past, a series of the most vexatious and severe losses; and, as we desire to stand high in the estimation of our brethren, and are anxious that they and the world at large should believe us incapable of severing that sacred tie which binds a Christian to his native soil, without the most sufficient reasons, we are induced to record the following summary of our motives for taking so important a step, and also our intentions respecting our proceedings towards the native tribes which we may meet with beyond the boundary:

1. We despair of saving the colony from those evils which threaten it by the turbulent and dishonest conduct of vagrants, who are allowed to infest the country in every part; nor do we see any prospect of peace or happiness for our children in any country thus distracted by internal commotions.

2. We complain of the severe losses which we have been forced to sustain by the emancipation of our slaves, and the vexatious laws which have been enacted respecting them.

3. We complain of the continual system of plunder which we have ever endured from the Caffres and other coloured classes, and particularly by the last invasion of the colony, which has desolated the frontier districts and ruined most of the inhabitants.

4. We complain of the unjustifiable odium which has been cast upon us by interested and dishonest persons, under the cloak of religion, whose testimony is believed in England, to the exclusion of all evidence in our favour; and we can foresee, as the result of this prejudice, nothing but the total ruin of the country.

5. We are resolved, wherever we go, that we will uphold the just principles of liberty; but, whilst we will take care that no one shall be held in a state of slavery, it is our determination to maintain such regulations as may suppress crime, and preserve proper relations between master and servant.

6. We solemnly declare that we quit this colony with a desire to lead a more quiet life than we have heretofore done. We will not molest any people, nor deprive them of the smallest property; but, if attacked, we shall consider ourselves fully justified in defending our persons and effects, to the utmost of our ability, against every enemy.

7. We make known, that when we shall have framed a code of laws for our future guidance, copies shall be forwarded to the

colony for general information; but we take this opportunity of stating, that it is our firm resolve to make provision for the summary punishment of any traitors who may be found amongst us.

8. We propose, in the course of our journey, and on arriving at the country in which we shall permanently reside, to make known to the native tribes our intentions, and our desire to live in peace and friendly intercourse with them.

9. We quit this colony under the full assurance that the English Government has nothing more to require of us, and will allow us to govern ourselves without its interference in future.

10. We are now quitting the fruitful land of our birth, in which we have suffered enormous losses and continual vexation, and are entering a wild and dangerous territory; but we go with a firm reliance on an all-seeing, just, and merciful Being, whom it will be our endeavour to fear and humbly to obey.

By authority of the farmers who have quitted the Colony,

(Signed) P. RETIEF.

Parl. Papers, C. of G. Hope (Return to an address of the House of Commons, dated 7 May 1838), o.98, p. 5.

No. 93. ATTORNEY-GENERAL'S OPINION REGARDING THE TREK.

[13 August 1836.]

When the circumstances of this colony are taken into consideration, it would seem next to an impossibility to prevent persons who are so inclined from passing out of this colony by the land boundaries thereof, either by laws now in force, and which I have recapitulated in my report of 10th September 1834, upon the Governor's memorandum of the 5th September 1834, relative to the emigration of certain of the inhabitants beyond the borders of the colony, or by any other laws which can be framed. The penalties provided by the existing laws, or any others which might be imposed, can only be levied so long as the offender can be found within the colony; and if the penalties were exacted, even in a solitary instance, there can be little doubt the effect would only be to put intending emigrants on their guard, and to keep their intentions secret until a favourable opportunity occurred of quitting the colony, before their removal was known to the authorities. The farmers alluded to in the civil commissioner's letter do not appear to leave the colony with the intention of ever returning. The laws I have referred to, seem to regard persons who pass beyond the boundary for some temporary purpose,

and who, during their sojourn out of the colony, still consider themselves as colonists; but the class of persons under consideration evidently mean to seek their fortunes in another land, and to consider themselves no longer British subjects, so far as the colony of the Cape of Good Hope is concerned. Would it therefore be prudent or just, even if it were possible, to prevent persons discontented with their condition, to try to better themselves, in whatever part of the world they please? The same sort of removal takes place every day from Great Britain to the United States.

But it may be said that danger may arise to the colony from acts and dealings of the farmers in question, in the progress of removal, with the frontier tribes, and that the Government is justified in preventing any such danger. Admit that it is so, is there any effectual means of arresting persons determined to run away, short of shooting them as they pass the boundary line? I apprehend not; and if so, the remedy is worse than the disease. The Government, therefore, if I am correct in my conclusions, is and must ever remain without the power of effectually preventing the evil, if evil it be, reported by the civil commissioners.

(Signed) A. OLIPHANT.

Parl. Papers, C. of G. Hope (Return to an address of the House of Commons, dated 7 May 1838), 0.98, p. 5.

BRITISH AUTHORITY BEYOND CAPE BORDERS.

No. 94. *An Act* for the Prevention and Punishment of Offences committed by His Majesty's Subjects within certain Territories adjacent to the Colony of the Cape of Good Hope. [13 August 1836.]

[6 & 7 W. IV., cap. 57.]

WHEREAS the Inhabitants of the Territories adjacent to the Colony of the *Cape of Good Hope* to the Southward of the Twenty-fifth Degree of South Latitude being in an uncivilized State, Offences against the Persons and Property of such Inhabitants and others are frequently committed by His Majesty's Subjects within such Territories with Impunity; for Remedy thereof be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Laws which are now or which shall hereafter be in force in the Colony of the *Cape of Good Hope* for the punishment of crimes therein committed shall be and the same are hereby extended and declared applicable to all His Majesty's Subjects within

any Territory adjacent to the said Colony and being to the Southward of the Twenty-fifth Degree of South Latitude, and that every Crime or Offence committed by any of His Majesty's Subjects within any such Territory in contravention of any such Laws shall be cognizable in any such Courts, and shall be inquired of, tried, and prosecuted, and on Conviction punished, in such and the same Manner as if the same had been committed within the said Colony.

II. And whereas it is necessary to prevent as far as may be the Commission of Crimes by His Majesty's Subjects within such Territories as aforesaid, and to provide for the Arrest, Commitment, and bringing to Punishment of any of His Majesty's Subjects by whom any such Crimes may be perpetrated; be it therefore enacted, That it shall be lawful for the Governor of the said Colony to address to any One or more of His Majesty's Subjects being within or about to resort to any such Territories as aforesaid One or more Commission or Commissions, authorizing him or them to exercise within such Territories the Office of a Magistrate for the Purpose of preventing the Perpetration therein by any of His Majesty's Subjects of any Crimes or Offences, and for the Purpose of arresting, committing to Custody, and bringing to Trial before such Courts as aforesaid any of His Majesty's Subjects charged on sufficient Evidence before him or them with the Commission of any such Crimes or Offences within any such Territories; and it shall also be lawful to the Governor of the said Colony, by any such Commission or Commissions as aforesaid, to define with all practicable and convenient Precision the local Limits within which the Jurisdiction of any such Magistrate or Magistrates shall be so exercised, and to which it shall so extend; and within the limits so to be defined as aforesaid every such Magistrate shall have, exercise, and enjoy all such Powers and Authorities over and in Reference to His Majesty's Subjects inhabiting or being within the same as shall by any such Commission or Commissions be specially granted: Provided always, that no such Powers or Authorities shall be so granted by any such Commission or Commissions, save only such as shall be necessary for accomplishing the Purposes aforesaid with Promptitude and Effect.

III. And be it further enacted, That all such Commissions as aforesaid shall be made to continue in force only during His Majesty's Pleasure; and the Governor for the Time being of the said Colony shall be and he is hereby bound and required to transmit a Copy of every such Commission by the earliest opportunity to His Majesty, through One of His Majesty's Principal Secretaries of State, for His Approbation or Disallowance.

IV. And be it further enacted, That nothing herein or in any such Commission or Commissions contained shall extend or be construed to extend to invest His Majesty, His Heirs or Successors, with any Claim or Title whatsoever to Dominion or Sovereignty over any such Territories as aforesaid, or to derogate from the rights of the Tribes or People inhabiting such Territories, or of Chiefs or Rulers, to such Sovereignty or Dominion.

V. And be it further enacted and declared, That for the purposes of this Act any Person lawfully administering the Government of the said Colony shall be deemed and taken to be the Governor thereof.

P.R.O., bound in *C.O.* 48/224.

CESSION OF TERRITORY.

No. 95. *Cession* of Natal Territory to EMIGRANT FARMERS, by DINGAAN, KING OF THE ZULUS.

UNKUGINSLOAVE, *4th February* 1837.

Know all men by this:

That whereas Pieter Retief Gouvernor of the Dutch Emigrant South Africans has retaken my Cattle which Sinkonyella had stolen which Cattle he the said Retief now delivered unto me. I, Dingaan, King of the Soolas, do hereby Certify and declare that I thought fit to resign unto him the said Retief and his Countrymen the place called Port Natal, together with all the Land annexed,—That is to say from the Togala to the Omsaboobo River, and from the Sea to the North as far as the Land may be useful and in my Possession. Which I did by this and give unto them for their everlasting Property.

As Witness—
(Signed) MVARA, *G. Raad.*
JULIANUS, Do.
MANONDU, Do.

(Signed) De merk (en) van de KONING DINGAAN. (The mark (in) of KING DINGAAN.)

As Witness—M. OOSTHUIZEN.
A. C. GREYLING.
B. J. LIEBERBERG.

Translation.

We certify that the foregoing is a true Copy of what was found by us by the bones of the late Mr. Retief in Dingaan's Country.

(Signed) A. W. PRETORIUS, *Chief Officer.*
(Signed) K. P. LANDMAN, *Commandant.*

I hereby certify that the above Document is a true Copy of the original Grant made by Dingaan to the Emigrant Farmers and found on the murdered Body of the late Pieter Retief, in my presence by Swart Potgieter on or about the 23d day of Decr. 1838.

(Signed) E. D. WARD PARKER.

P.R.O., MS. copy in *C.O.* 48/200.

No. 96. CESSION OF NATAL TERRITORY TO THE KING OF ENGLAND. [21 June 1837.]

DINGARN KING OF THE ZOOLUS to the KING OF ENGLAND.

I have always treated your White people well, I have given them plenty of ground to hunt upon, but they have been continually at variance, & dispute among themselves and with my people & I now wish them to be called back to their own country—I have always taken great care of them, have never killed one of them, nor have I ever had such intention—I wish Captn Gardiner & all the Missionaries to remain, as I can talk pleasantly with them. I wish a Chief to be sent to Port Natal to pursue peace & to see that my people do not go down there, & to tell them that they are not to remain there—If this is done the White people who are there now may all stop, but if this is not done I should wish them to be removed—Captn Gardiner is the Chief you have sent to Port Natal, but he says that he has no power to send my people back who desert from me—I wish him to send them back & I wish him to be the Chief there—If my people who desert to Port Natal are sent away & not permitted to remain there, I shall be satisfied—I do not ask for them to be sent back, as Captn Gardiner tells me it is contrary to the custom of White Kings. This is what I ask—All the ground on which the White people live about Port Natal I give to the King of England—I give him the whole country between the Umgăni river & the territory occupied by Fāku & Napai, from the sea coast to the Quathlamba mountains with the exception of a district on the Umgăni belonging to me which commences at the mountain called Issicālla Sinyōka.

DINGARN, King of the Zoolus } × His sign.

Signed in the presence of the following chiefs this 21st day of June 1837 at Nobamba :

MĂNYOSI	*Induna* . .	his mark	×
MĀPEETI	Do. . .	Do.	×
MANGUĀNGA . . .	Do. . .	Do.	×
THOMAS VERITY .	*Interpreter* .	Do.	×

P.R.O., Original MS. in *C.O.* 48/193.

BRITISH AUTHORITY.

No. 97. *Protest* against a Magistrate's Authority. [July 1837.]

[On 21st April 1837 Captain Allen Gardiner of the Royal Navy was commissioned by Governor D'Urban to proceed to Natal as a Magistrate possessing criminal jurisdiction under Act 6 & 7 Wm. IV. cap. 57. His office was to be exercised "within the Territory extending from the left Bank of the Umzimvoobo to the Northermost limit of the Zulu Territory, and from the Sea Coast to the Quathlamba Mountains; including also the whole of the Zulu Country, and its Dependencies." He could not find there a single white man ready to assist him by performing police duties, and the few Englishmen then at Port Natal protested against his appointment.]

Protest of the INHABITANTS OF NATAL against the appointment of Captain A. GARDINER, R.N., as a Magistrate over them for the following reasons:

1st. That the Country of Natal is not an acknowledged part of the British Empire, but a free settlement.

2nd. That this said Country of Natal was granted to the resident Inhabitants by Chaka the late King, and confirmed to them by Dingarne, the present King of the Zoolas, and stiled by them the Whiteman's Country.

3rd. That the power so invested in Capt. Gardiner is contrary to the principles of equity, inasmuch as it extends to British Subjects only, not empowering the said Capt. Gardiner to punish any act of aggression committed by the Native population or by other Europeans upon the British residents of Natal.

4th. That the said Capt. Gardiner is not empowered to decide upon civil cases, which would have much more materially benefited this settlement by the increased confidence it would have given to mercantile and mechanical men to settle at Natal.

5th. That the appointment of Capt. Gardiner to take cognizance of criminal causes only, might open the door to acts of tyranny and oppression inasmuch as he is obliged by the tenor of his Commission to forward and transmit to the nearest Magistrate in the Colony of the Cape of Good Hope, the depositions taken before him of any alleged offence committed, during which time the supposed offender must remain in custody until a decision upon the report is made in the Colony, and returned to Natal.

6th. That no mode of redress is pointed out in the event of acts of oppression being committed by the said Captain Gardiner or by his order upon the Inhabitants of this Free Country, and ruin might be the result of the person so oppressed.

7th. That the said Capt. Gardiner before his leaving this

Country for the avowed purpose of soliciting the British Government to take possession of, and annex Natal to the British Empire, has materially injured the interests of the Inhabitants by advising the King of the Zoolahs to stop the trade with his people, which fact has been communicated to them by Dingarne.

That the Inhabitants in thus stating their reasons for thus protesting against the appointment of Capt. Gardiner as a Magistrate over them, are not actuated by factious motives, but do so on the principle that this is not an acknowledged part of the British Empire, nor has ever been officially taken possession of by His Britannic Majesty, but is decidedly a free Country.

Yet they ardently wish that his Majesty's Government would recognize it and appoint Magistrates not to hold out threats and imprison only; but to protect and encourage them. Yet although protesting against (: being a free people :) the authority attempted to be set over them in the Commission of Captain Gardiner: yet they will cheerfully render obedience to such competent authority, as may have the power as well to protect as to punish.

(Signed) DANIEL CHAS. TOOLY, ALEXR. BIGGAR, ROBT. BIGGAR, JOHN CANE, HENRY OGLE, JOHN STUBBS, CHAS. BLANCKENBERG.

[Encl. in a Desp. of 26 July 1837.]

P.R.O., MS. copy in *C.O.* 48/193.

No. 98. THE OCCUPATION OF PORT NATAL BY A BRITISH FORCE.

[4 Dec. 1838.]

[In 1838 Governor Napier sent a small body of troops under a certain Major Charters to take temporary possession of Port Natal in order to prevent the emigrant farmers from encroaching on native rights. Major Charters also held a commission, dated 16 Nov. 1838, as a Magistrate under Act 6 & 7 Wm. IV. cap. 57. It was from his letters that the news of the defence of the wagon camp of the emigrants on 16 Dec. 1838 reached Cape Town. The victory is commemorated annually as Dingaan's Day.]

Pursuant to the Orders of His Excellency Sir George Napier, K.C.B., Governor and Commander-in-Chief of the Colony of the Cape of Good Hope, I hereby take Military Possession, in the name and on behalf of Her Britannic Majesty Queen Victoria, of the Port of Natal and adjacent territory—the boundaries of which territory are now to be described.

A curved line following the . . .[1] of the bay, every point

[1] One word is indistinct in the MS.

of which shall be two English statute Miles distant from the High Water mark of the said Bay or Harbour, will define the boundary of the Military occupation, and I hereby declare the whole of the territory thus defined to be under Martial Law, according to the English Articles of war, without prejudice however to any of the aboriginal tribes who may at this date be inhabitants of the territory above described; which aboriginal tribes shall not only be suffered to pursue their quiet occupations, but be directly protected in their persons and properties, in so far as it shall be in the power of the Military force at Natal to protect them.

It is clearly to be understood that there is nothing in this declaration, which shall be in any way construed into an intention of Her Majesty's Government to colonize, or keep permanent possession of this Country, unless it be Her Majesty's pleasure so to order.

Be it Known therefore that this military occupation has taken place in consequence of the orders of His Excellency the Governor of the Cape of Good Hope, for the purposes set forth in his Proclamation of the 14th November 1838.

I also make known that it has been the pleasure of His Excellency the Governor of the Colony of the Cape of Good Hope for the better protection of the native Tribes to invest me with a Magisterial authority under the Act of Parliament of His late Majesty, King William the Fourth, entitled an Act for the Prevention and Punishment of Offences committed by His Majesty's Subjects, within certain Territories, adjacent to the Colony of the Cape of Good Hope,—13 August 1836.

The above declaration shall bear date from the day Her Majesty's troops landed at Port Natal, viz., the 4th of December 1838.

(Signed) SAMUEL CHARTERS, *Major Commg.*

A True Copy.

(Signed) T. SHEPSTONE.

P.R.O., MS. in *C.O.* 48/199.

THE REPUBLIC IN NATAL.

No. 99. *Early Legislation in Natal.*

PIETER MAURITZ BURG,
29th July 1839.

Be it known that at a Meeting of the Council of the people held on the 27th, 28th, and 29th Instant it was resolved and determined that:

1st. That after publication hereof all young Men of 15 Years of Age, who shall cause themselves to be enrolled for

Militia Services, shall on application be considered to have a claim to the grant of a Place.

2nd. As soon as a Powder Magazine shall have been erected, any of the Proprietors of such Powder deposited therein, shall be permitted to have three Pounds of that Powder, and no more, in his house, on pain of Rds. 100.

3rd. Country Field-Cornets will be directed to tax any damage committed to lands, and a Tariff will be prepared accordingly.

4th. That at Port Natal, and Under Umlass shall be appointed Mr. P. J. Joubert as Provisional Landdrost, and Messrs. Fk. Johs. de Jager, H. Bredenberg, Dirk van Rooyen, and Wm. Cowie, as his Heemraden.

5th. All unregistered Erven at Pieter Mauritzburg will be considered to be resumed after the 15th July next, and will be granted to other Applicants.

6th. No Zoolu shall be allowed to remain among the Bushmen Kafirs; if any Zoolu shall be found to sojourn among them, such Kafirs may be punished with death for so detaining them.

7th. All Licenses except for the Sale of Wine and Brandy have been fixed at Rds. 40, to be issued Quarterly. Those for Wine and Brandy, by Retail, at Rds. 150 per Annum shall be paid, by Wholesale, Rds. 50 per Year.

8th. No Tambotie Timber shall, until further orders, be allowed to be felled in the neighbourhood of Port Natal;—that already felled may be carried away upon obtaining a Licence from the provisional Landdrost, or some person authorized by him—for which Licence shall be paid Rds. 2 for each load. Those persons transgressing this regulation shall be liable to a fine of Rds. 25.

9th. Sickness preventing business to be carried on properly at this moment,—this shall be considered sufficient for the present; when an opportunity offers the necessary notifications, appointments, and instructions will be sent.

A Summons shall be sent to Ogle to appear here before the Magistrate.

(Signed) JAS. JOHS. BURGER, *Member of the Council of the People.*

P.R.O., MS. copy of translation in *C.O.* 48/201.

No. 100. MEMORIAL OF THE EMIGRANTS AT PORT NATAL TO THE CAPE GOVERNOR. [1839.]

[The following memorial was forwarded to the editor of the Cape Town newspaper, the *Zuid Afrikaan*, for publication, while it was also presented to the Governor of the Cape Colony. It bears no date, but

internal evidence shows that it was very probably drawn up in March or April 1839.]

To His Excellency Major-General Sir G. NAPIER.

SIR,—When we compare the several verbal communications, as well as the public journals, with your Excellency's open invitation by Proclamation, dated Graham's Town, 21st May last, to return to the Colony, we fear that your Excellency, prejudiced against us by a party, who have incessantly persecuted us with enmity, will not grant us the right of being judged by a calm consideration, guided by your own personal principles; and wishing as much as is in our power to provide herein, we have this day convened our Representative Assembly (Volksraad), and, on the proposal of the President, have resolved to adopt such measures as may be considered necessary for the prevention of any misunderstanding, rupture, and further alienation.

It is therefore on the full conviction of your Excellency's concern for our fate that we venture to bring to your Excellency's notice, that our emigration has taken place openly under the eye of Government; while even some of us, taking leave of the Governor, and others of the Lieutenant-Governor, have parted with their best wishes. We have consequently not emigrated in secret; but after the Commandos against the invading Caffers had been gloriously accomplished, and they had been compelled to make peace,—after our taxes had been paid, and after having had the public assurance of the Lieutenant-Governor that there existed no law against a voluntary emigration, which is so much encouraged in other countries, and to which we have not been actuated or compelled by deception, nor by bad nor foolish prejudices, as by your Excellency's said Proclamation it appears to be supposed. The emigration did not also take place (as some of our enemies presume) on account of the emancipation of the slaves; on the contrary, a long and sad experience has sufficiently convinced us of the injury, loss, and dearness of slave labor; so that neither slavery nor slave trade will ever be permitted amongst us; and should Mr. Gideon Joubert do justice to truth, his report on the emancipation of the apprentices will show not only our readiness in complying with the wishes of Government, but will also state, that precautions have been taken by us, for those who did not choose to leave their masters, to put them in the way, should they choose it, to return to the Colony.

When we consider your Excellency's invitation to return to the Colony, and the general protection proffered to us, we feel ourselves obliged not only gratefully to acknowledge your Excellency's good will towards us, but we are even confident, that if our fate depended entirely from the decision and

sentiment, as well as of your Excellency's own principles and liberal ideas of what is just and what is unjust, our case would soon be decided; but as long as the best will is fettered to a chimerical philanthropy, so generally raging in Europe, we fear it will be difficult for your Excellency to do anything in our favor.

The reasons of our emigration are different: some of a personal nature; others arose from public causes. Amongst the first, which are numerous, we will just record one; namely, the illegal arrest, without cause, of Mrs. Uys, during the absence of her husband, who was on the Commando against the Caffers. Those of a public nature principally consist of the disgusting Ordinance No. 19, which is so degrading for us, and the several laws afterwards published, whereby our slaves have been spoiled, and we ourselves ruined. The emigration was also greatly influenced by the vagabondizing of the Hottentots and free blacks, to whom this and also other offensive acts of drunkenness,—cursing, swearing, and profanation of the Sabbath, was allowed with connivance and impunity; add to which the hard treatment which many of us have undergone after the last Caffer war; plundered without any cause, robbed, and our dwellings destroyed by fire; yea, even our own cattle, which had been retaken, publicly sold, numbers having died in the Pounds through neglect, and the amounts appropriated to purposes contrary to law and equity, without our receiving any remuneration or indemnification for our stolen cattle, burned houses, massacred relations, nor for the enormous expences which we personally incurred for saddles, horses, equipments, and everything of that nature; and finally, a more general dejection was occasioned by the new regulations and Caffer treaties of the Lieutenant-Governor, whereby all privileges and protection is secured to the one side, while we were contemptuously placed on the background, without any prospect of being able to recover the injuries which we have suffered, and exposed to daily ravages and cattle thefts. For all these reasons, and seeing before us our fast-approaching ruin and total destruction, we resolved to emigrate, with extreme anxiety, but with a heart fully trusting in the goodness and protection of the Lord.

Proceeding at different times in small divisions, we had resolved to direct our steps towards Port Natal, that country being described by some amongst us, who had visited it, as very fertile and salubrious; and though we then had not yet enacted any laws amongst us, we have followed up the generally approved principle, to treat the Caffers, through whose country we passed, and other tribes, with kindness and generosity, and strictly and inviolably to respect their right

of property and independence, whereby we have passed several tribes without being obstructed, and in amity, until in the month of June 1836 we were attacked in a traitorous manner by the chief Maselikatse, while we were then still at a distance of about 40 hours on horseback from his territory, and whereby several families were barbarously butchered, and deprived of all their cattle, etc., which forced us to commence hostilities against said chief, and to endeavour to retake the cattle which they had stolen from us; for which purpose we went out against him at two different times, and have for the greatest part obtained our views. This chief having afterwards been expelled, Mr. Piet Retief, approaching the boundaries of the Zoolas, made proposals to the chief Dingaan for the purchase of a piece of ground on the southern part of the River Togola (which land was almost uninhabited); but after all arrangements were brought to a point of agreement on the most amicable and best terms, he was most barbarously murdered, together with 60 of his companions, children, and friends; which was followed up a few days after by the massacre of 370 others, who, under the idea of peace and friendship, unguarded also, became the victims of his love for murder, and were deprived of almost all their cattle. But as your Excellency is already fully acquainted not only with the particulars of the case, but also of that of our hero and friend, Piet Uys, we will, without further thinking of this melancholy history, proceed to acquaint your Excellency with the continuation of the emigration, of which three small divisions have arrived at Port Natal at different times, after a long and tedious journey of more than two years. One part has established itself at the head of the Bay, at the place called "Congela," another part at the River "Umgenie," and the third division also near to the Bay, at the River "Omlaas"; while three other and stronger divisions form a line to the River Togola, at a distance of an interval of from 10 to 20 hours on horseback nearer to Dingaan's residence.

We trust your Excellency will not only pardon this circumscription, but will perceive thereby that we act openly, and do not intend to conceal anything; on the contrary, we shall continue to place everything under the eye of the world, in order thereby to give an opportunity to every one truly and fairly to judge of our conduct.

On our arrival in the vicinity of the Bay, we found the surrounding maize plantations totally destroyed by the Zoolas, and the so-called tame Caffers, residing there, deprived of all their cattle, whereby want soon became perceptible amongst them, of which thousands no doubt would have become the victims, if the arrival of the Emigrants, whom they

assisted in herding their cattle, etc., had not rescued them from general famine, some of them having already died from want of food. While *now*, their new harvest, consisting of maize plantations, which can hardly be overlooked (for the extension of which they were encouraged by us), holds out to them a good and abundant prospect, under the blessing of God, by whom alone the destructive hand of the tyrant "Dingaan" can only be repelled.

One of our first measures on our arrival here, was, to give notice to the chief "Faku" of our arrival, through the missionary Jenkins (to whom, in respect of several other instances, we were under great feeling of gratitude), and to make a proposition to him, "Faku," of peace and amity,—the favourable result of which your Excellency will learn from the reply of the said Mr. Jenkins (handed by us to Mr. Joubert).

We shall always feel happy in cherishing friendship and peace with all the tribes with whom we may meet, and could we be fortunate enough to enjoy the same with that country where we have left more than one dearly beloved connection, we would, burying in oblivion the past sufferings, consider the result fortunate,—and for which purpose, no sacrifice on our side will be considered too great.

As to the so-called tame Caffers here, already mentioned we find, that with the exception of their natural propensity for thieving, which is particularly limited to eatables, as well as old iron, beads, and other trifles, we have no particular reason for being dissatisfied with them;—on the contrary, their conduct shows a certain degree of attachment to their master, to whom they however bind themselves but for a short time. The women generally are more industrious, and better fit for the cultivation of the land, which is also performed by them and their children.

As we fear to trespass too much on the patience of your Excellency, we shall conclude, trusting that this open and candid statement may not have diminished your Excellency's good inclination towards us, but on the contrary, that giving satisfactory proofs of our peaceable intentions and views, we may thereby have increased your Excellency's concern in our fate. On our part, we can assure your Excellency, that the universal sentiment amongst us, is that of high respect and affection for your Excellency's person, as well as for the Government; and that nothing will be more pleasing to us than the receipt of equitable proposals from the hands of your Excellency concerning a privileged trade with the Colony. And we declare also, that all further measures proposed by your Excellency, having in view peace and amity, will be gratefully accepted by us; but at the same time if even here

we are to be persecuted and disturbed by undeserved hatred and persecution, we shall be under the necessity, (having immeasurable fields before us,) of seeking elsewhere for that rest and peace which is refused us in such an ungenerous and iniquitous manner.

We have the honor to be with the highest respect,

SIR,

Your Excellency's most obedient, humble Servants.

P.R.O., the *Zuid Afrikaan* for 7 June 1839, bound in *C.O.* 48/205.

EMIGRANTS' DEMAND FOR INDEPENDENCE.

[On 24th Dec. 1839, the British force at Port Natal, 110 of all ranks, sailed for Cape Town. Five days previously the commandant, Captain Jervis, had written to the emigrants then stationed near the Bay, at Congella Camp, and informed them of the intended evacuation. He wished them happiness and success in their new surroundings, but again pointed out that they could not throw off their allegiance or cease to be regarded as subjects of the Queen of England.[1] Then in June 1840 Lord John Russell sent a despatch to Cape Town instructing the Governor to reoccupy Port Natal if such a step seemed desirable and possible. Napier replied [2] that a large body of troops would be needed for the enterprise, and that he could not spare those troops at the time in view of the restless state of the frontier burghers, whom the Kaffirs had again begun to plunder. He earnestly requested leave to communicate with the emigrants, to ascertain their grievances, and to attempt to settle matters peaceably, believing, as he said, that this would be by far the easiest and ultimately the wisest course to pursue. Civil war would lead to increased ill-will towards the British Government and a fresh migration into the interior.]

No. 101. *Request of Emigrants in Natal* to be Recognised a Free and Independent People.

PIETER MAURITZ BURG, PORT NATAL,
4th September 1840.

To His Excellency the GOVERNOR OF THE CAPE OF GOOD HOPE, etc. etc. etc.

YOUR EXCELLENCY,—By the blessing of God we have perfectly succeeded in establishing, with our numerously surrounding savage enemies, not only an advantageous, but, for the so long oppressed people, a lasting peace, which presents us with the cheering prospect of permanent prosperity. This prospect, though, is somewhat darkened by the conviction that between us and our always beloved Mother Country there does not exist that friendly sympathy in our welfare which we would fain wish to see strongly and lastingly established.

[1] *P.R.O.*, MSS. in *C.O.* 48/207.
[2] 29 Sept. 1840; MS. in *C.O.* 48/208.

This general wish has frequently on former occasions been under the consideration of the Volks Raad (Council of the People), and has presently, to the exclusion of all other matters, been more particularly under their discussion—which has originated the following resolutions, namely:

To submit respectfully to Your Excellency, as the honoured Representative of Her Majesty the Queen of England, that it may graciously please Her Majesty to acknowledge and declare us a free and independent people (a right so dearly purchased with our blood), and to concede to us all those privileges which constitute the boast and greatness of the Nation which has the happiness to live under her noble Government; and, to attain that object, the "Council of the People" have resolved that (should Your Excellency desire it) Two Commissioners shall be sent from hence to the Colony of the Cape of Good Hope as our representatives, at such time and to such place as Your Excellency shall appoint, both which Commissioners shall be properly and fully empowered to concert such friendly arrangements as may be considered most compatible with the honour of Her Majesty and best for our permanent good.

If, for the more speedy arrangement of this matter, Your Excellency should prefer a negotiation to take place in writing, the "Council of the People" will fully concur in it.

We have the honour to subscribe ourselves, with the greatest respect,

In the name and on behalf of the "Council of the People,"

(Signed) L. BADENHORST, *President of the Council.*
J. J. BURGER, *Secretary.*

MS. copy of translation in *C.O.* 48/208.

No. 102. ARTICLES OF AGREEMENT AND ALLIANCE PROPOSED.

PETER MARITZ BURG, NATAL,
14th January 1841.

To His Excellency Major-General Sir GEORGE NAPIER, K.C.B., Governor and Commander-in-Chief, etc. etc. etc. of the Colony of the Cape of Good Hope.

RIGHT HONORABLE SIR,—

[After making some preliminary remarks, the letter proceeds:] We are willing and desirous of entering into a perpetual Alliance with the Government of Her Majesty the Queen of England on the following principles:

1st. That the Honored Government of Her Majesty the Queen of England would be pleased to acknowledge and

declare our Settlement here as a free and independent State under the name of "The Republic of Port Natal and adjoining Countries" the boundaries whereof can be hereafter defined.

2nd. That Her Majesty's Government declare itself willing to treat with the said Republic in the relation of an Ally.

3rd. That the said Republic reciprocally declares itself to stand in the closest alliance with the British Government.

4th. That Her Majesty's Government shall be at liberty, in case of any hostile undertaking against this Republic, by sea, by any other Power whatever to interpose itself either in a friendly manner or to repel the same by force.

5th. That in case of War between the British Government and any other Power this Republic shall be viewed as Neutral, and all private commercial Vessels lying at anchor in the ports of the Republic shall be left unmolested.

6th. That the British Government shall have the right to place here an Ambassador or Representative Agent.

7th. That the trade of British Merchandize shall not be made subject to higher imposts than those of other people or Nations, but the same as far as practicable shall be regulated according to the Duties on British Goods as levied in its own Colonies, with the exception of Wines, Strong Liquors, and other Articles prejudicial to this Republic the unnecessary import of which it would be advisable to restrain by higher duties. In consideration of which all articles of trade of this Republic should be received in all British Possessions and not be subject to higher duties than those of British Settlements.

8th. That this Republic promises never to make any Hostile movement against any of the Natives or Inland tribes who may reside between the Boundaries of the said Republic and that of the Colony of the Cape of Good Hope without first giving Notice thereof to the Representative of that Government here or to the Governor for the time being of the Colony aforesaid, as also the cause which may have given rise thereto—with exception however of such occasions wherein it will be our Duty to take immediate steps against the Enemy either in opposing or repelling their inroads or contemplated attacks upon us, or upon any of the Natives on our Frontier and in Alliance with us, or in case of Robbery to pursue immediately the Robbers and overtake them, and in all such other cases wherein delay or neglect would be dangerous and prejudicial to us.

9th. That we further bind ourselves not to extend our Boundary Line farther, to the detriment or disadvantage of any of the surrounding Tribes, nor to make any hostile movement upon them unless such tribe by any preceding hostile

attack shall have given us occasion thereto, so that we for the maintenance of our Rights or for the security of our property shall be compelled to take up Arms against such tribe.

10th. That the Republic promises to give every encouragement for the spreading of the Gospel amongst and for the civilization of the Heathen Tribes which surround us, or are residing under our Government.

11th. That this Republic promises not to give any aid or assistance in any manner to the declared or public Enemies of the British Government in any hostile undertaking against the same, nor to permit such known Enemies' Vessels to enter our ports, or to provision them, but on the contrary of war with the Colony by Kafirs or other tribes residing between us and the Colony, should the Governor of the Colony be desirous either by Sea to Land, or over Land to march an armed force thro' our Territory, to assist the same with Provisions, means of Transport, etc., and further as far as possible to accomodate them.

12th. That this Republic undertake and bind themselves never to enter into any Slave trade, or to encourage, or to assist the same, or to permit any Vessel or Craft of that Trade to enter our ports or to furnish them with any refreshment.

13th. That the British Subjects residing in this Republic shall be equally protected in their persons and property, and shall not be subject to higher Taxes or Duties than the Burghers of this Republic are.

We take the liberty to add further that as Your Excellency will perceive by the foregoing that we are very desirous to be always on the best and friendly terms with the British Government, and if possible to live in Peace with the surrounding Nations, and only wishing to protect and to govern ourselves in our lawfully acquired Territory, without detriment either to your Government, or the Nations surrounding us if they are willing to live in Peace with us. Your Excellency will have no objection to recommend our application to Her Majesty's Government, and we can assure Your Excellency that we on our side will forget all we have suffered, and by our future conduct shew that we are as worthy to be received as Allies, as we before shewed as dutiful and obedient Subjects, and notwithstanding the continual wrong imputations, ungrounded and completely destitute of truth, which from certain channels have been cast upon us and repeatedly forced upon Her Majesty's Government in England, we do not hesitate to say; that we hope to convince the World that so far from tending to serve as a destroyer or corrupter of the Heathen Nations in this Region, we are in the hands of God the means of preventing Robbery, Murder, and Violence, and even tend to

the greater Security of the Cape Colony, and to the furtherance of Christian Civilization amongst many thousands who up to this time have been in a state of benighted darkness; and which many of the Heathen Tribes who are living under our protection and others with whom we have concluded peace will readily acknowledge.

We have the Honour to remain with the Highest respect
Your Excellency's Most Obedient and Humble Servants,

(Signed) K. P. LANDMAN, *President*; C. v. BUCHNER, L. BADENHORST, L. F. MEYER, J. J. UYS, J. P. MOOLMAN, A. W. J. PRETORIUS, JACS. JOHS. BURGER, G. J. SCHEEPERS, J. C. KLOPPER, J. C. POTGIETER, R. J. v. RENSBURG, G. R. VAN ROOYEN.

[Napier was awaiting instructions from England as to the course to be adopted with regard to Natal, and therefore did not reply to this request.]

P.R.O., MS. copy of translation in *C.O.* 48/211.

No. 103. BURGHERSHIP LAW AND THE POSSESSION OF FIXED PROPERTY.

Approved and resolved at a Meeting of the Council of the People at Pietermaritzburg, on the 14th day of the month of April, in the year of our Lord, 1841.

WHEREAS it has been deemed necessary, and the Council has been repeatedly urged therto by the Burghers, to provide and enact, by a fixed Law or Regulation, on the subject of the Right of Burghership, as well as the right of possessing Lands or fixed Property, and the granting of the necessary Title Deeds: So it is, that the Council,—after mature consideration,—have determined, ordained, and enacted:

1. That all the South African Dutch Emigrants, at present residing within the limits of this Republic, or who may still come to reside therein before the 1st of January next,—and who shall be allowed to take the Oath of Burghership,—and all Strangers already residing within the Limits of this Republic, and have been already sworn in, as Burghers, together with their children, when they shall grow up and come to maturity, shall be, and are considered to be, real Burghers of this Country and Republic.

2. That all Dutch South Africans, born in the Colony of the Cape of Good Hope, and who may come to reside within this Country, after the 31st December next, and desire to become Burghers of this Country and Republic, shall make

application for that purpose by Petition to the Council of the People; and on being admitted to that privilege, shall, on becoming a proprietor of fixed property, receive, at the transfer, a certificate that he is entitled to possess fixed property, for which Certificate he shall pay 12 Rixdollars.

3. That all Strangers or Foreigners who may come here after this date, after they shall have resided within the limits of this Country for the space of twelve successive months, and on obtaining a Certificate from the Landdrost of the District, or the Field-Cornet and two respectable Inhabitants of the Ward in which they resided, that they have conducted themselves peaceably, submissive, honest, faithful, and sober, may be accepted and sworn in as Burghers of this Country by the Council, or the Officer for the time being thereto authorized by the Council, on payment of a sum of Rds. 50, or such sum as shall hereafter be fixed by the Council.

4. That no person else but a Burgher of this Republic, shall be possessor of Lands, Houses, or fixed property.

5. Any person leaving the Country for the space of twelve months, or more, without special permission of the Council, shall no longer be considered a Burgher; and having fixed property here, the same shall be publicly sold for his or her account.

6. Every Burgher (male or female) shall be obliged to pay annually into the Public Treasury, for the right of possession of fixed property, and for the protection of the Laws of such Property, a sum of Twelve Rixdollars, and no more, for each place, in extent 1000 morgen or above; but not exceeding 3000 morgen; for a place of less extent than 1000 morgen, (on the Council approving thereof,) a smaller amount shall be payable; but being more than 3000, and under 4000, a proportionate advance shall be made; and if above 4000 morgen, shall be considered as two places.

7. The Council may draw up and issue Title Deeds, and appoint a Commission to subscribe the same.

8. All special Servitudes on Lands shall be specified in the Title Deeds; but all Lands shall be subject to the following general Servitude, although the same be not specified in the Title Deed.

9. [Roads running across any land are to remain open for traffic, for driving sheep, goats, and cattle, and for outspans.]

10. When any place or land may be required for public use, the owner shall be obliged to sell the same, but not for less than its full value in the manner of arbitration, to be fixed by impartial Landowners sworn in for that purpose.

11. [Gold and silver mines and large forests shall be reserved for the benefit of the public, unless the Legislature shall

grant the same to the owner of the property concerned by annual licence. Punishments for setting fire to the veld or to a forest.]

12. No confiscation or forfeiture of any Land for the benefit of Government shall ever take place for any misdemeanour or trespass of the Law whatsoever; but, whenever any person shall be convicted by a Jury of twelve of his fellow-citizens, of the crime of treason, or armed insurrection against the lawful Authorities, and shall in consequence thereof be condemned to transportation from the Country, he shall be considered as having forfeited his right of burghership,—and his Landed Property shall then be sold by legal authority, for the benefit of himself, his Creditors, or Heirs.

13. All Title Deeds, issued for any place in freehold, shall be considered as being granted by authority of this Law, and subject to the conditions and stipulations herein contained, until other provision shall be made in that respect by the Council of the People or the Legislative Council.

14. In this Law or Regulation none the least alteration, addition, or deduction shall be made (except only in such Articles as to which authority is granted) without the consent of at least two-thirds of the number of all the chosen Members of the Volks Raad, or Legislative Council, and after discussion in two succeeding Meetings.

Duly subscribed by the Volks Raad.

A true Copy.

J. BODENSTEIN, *Secretary of the Council.*

P.R.O., MS. in *C.O.* 48/235.

BRITISH AUTHORITY OVER EMIGRANTS.

No. 104. *Proclamation.*—By His Excellency Major-General Sir GEORGE THOMAS NAPIER, K.C.B. [etc.]. [2 Dec. 1841.]

[In August 1841 Lord John Russell instructed Napier to re-occupy Port Natal. The proclamation given here was issued and a body of troops was sent. Fighting resulted between the troops and the Republicans, and till 1843 matters were in a very unsettled state.]

WHEREAS certain persons, being Subjects, and chiefly natural-born Subjects, of Her Majesty, have heretofore at various times emigrated from this Colony, and have taken possession of Port Natal and certain Territories adjacent or appertaining thereto:

And whereas I have lately received a Letter, addressed to me, dated Pieter Mauritzburg, the 11th October 1841, signed by J. Prinsloo, as President, and Jacs. Johannes Burger, as Secretary, of the Council of Emigrant Farmers, now residing at Port Natal, and in the Territory adjacent thereto, in which

they inform me, in the name and by the desire of the said Council, as they allege, that they claim to be, and to be recognized as, an Independent State or People, and declare that they are Dutch South Africans by birth, and have ceased to be British Subjects, and refuse to be recognized or treated as such; —and whereas I have been informed that the said Council, at a Meeting held on the 2nd of August 1841, and subsequent days, passed a Resolution, by which they resolve, that all Kafirs inhabiting Port Natal and the Territory thereunto appertaining, as well as those Kafirs who were established at Port Natal long previous to its occupation by the Emigrant Farmers, as others the Subjects of Chiefs at peace with Her Majesty, and living at peace with all Her Majesty's Subjects, shall be removed, without their consent, from Port Natal and the Territory thereunto appertaining into the Country lying between the Mouth of the Umtafoena and that of the Umzimvoobo, which Country forms part of the Territories belonging to Faku, a Chief at peace with Her Majesty, without having obtained the consent of the said Faku, from which most unjust and illegal proceeding there is reason to apprehend that warfare and bloodshed will be occasioned;—and whereas I am desirous to prevent any of Her Majesty's Subjects from being through ignorance misled by the evil disposed and mischievous or misguided Persons who have written or authorized the writing and forwarding to me of the said Letter, dated the 11th of October 1841, and am determined to prevent, to the utmost of my power, the possibility of the occurrence of warfare and bloodshed within any of the said Territories:

I have therefore deemed it expedient and necessary to declare, as I do hereby proclaim and declare, that the said Emigrants have no right or claim to be recognized as an Independent State or People; that Her Majesty will not recognize them as such, and will not permit or suffer any portion of her Subjects to form themselves into an Independent State or People within any of the said Territories; and that, in obedience to the Orders of my Sovereign, I shall resume the Military Occupation of the same, by sending thither, without delay, a Detachment of Her Majesty's Forces. And I hereby warn all British-born Subjects, and particularly those who, after the Eighteenth Day of January 1806, have been born within this Colony, of Parents who, at the time of their birth, by reason of their permanent residence in this Colony, or otherwise, owed Allegiance to, and were Subjects of, the British Crown, that they cannot, by their removal from this Colony to any other place whatsoever, divest themselves of the allegiance which they owe, by reason of their birth, to the British Crown, or of the character of British Subjects, and not-

withstanding any such removal, must and will still be considered, and are liable to be treated as, British Subjects: and I hereby warn all British Subjects, whether by birth or otherwise, against the consequences of in any wise resisting or opposing Her Majesty's Forces, or the due exercise of Her Majesty's rightful authority, and that they and all others who shall engage in any seditious practices, or shew any disaffection to Her Majesty, will forfeit all claim, as well for their Families as themselves, to any favourable consideration of their claims to any Lands now possessed by them, in any settlement or arrangement which Her Majesty may deem it right and fitting to make touching and concerning the same.

And I further warn all Persons, not being British Subjects, and not acting under the commission or authority of some established and recognized State or Potentate, who shall within any of the Territories hereinbefore mentioned, be in Arms for the purpose of attacking or forcibly resisting or opposing Her Majesty's Forces, or of attacking the Subjects of any Native Chief at peace with, or under the protection of, Her Majesty, that they will thereby contravene the Law of Nations, place themselves out of the protection of the Law, and render themselves liable to be dealt with as the interests of the Crown may require and circumstances may render advisable.

GOD SAVE THE QUEEN.

P.R.O., C.O. 48/214.

QUALIFICATION OF VOLKSRAAD MEMBERS.

No. 105. *Resolution* of the Volksraad, Feb. 1842.

21. It appears to the Council that at a public meeting held on the 3rd Instant a resolution was proposed and unanimously adopted that this Council be requested to order that in future every member of Council shall declare upon Solemn Oath that he has never since his residence in this country either by word, deed, or writing intimated a wish or proposed to any Official Authority or private person beyond the limits of our jurisdiction, that any Foreign or other Power should take possession or assume the Government of this Country or destroy the independence of this Republic: and that he shall further swear never to do so directly or indirectly except in the meeting of Council only in a public manner.

* * *

A free translation.

(Signed) W. TENNANT.

P.R.O., C.O. 48/223.

No. 106. EMIGRANT GRIEVANCES.

To His Excellency Major-General Sir G. T. NAPIER, Governor and Commander-in-Chief of the Colony of the Cape of Good Hope.

PIETER MARITZ BURGH, NATAL,
21 *February* 1842.

SIR,—We the undersigned, President and Members of the Volksraad, assembled in our Council at this place, have deemed it proper to inform Your Excellency that we have received a certain Proclamation issued by Your Excellency dated the 2nd December 1841, in which it is declared, that Your Excellency has thought proper in pursuance of instructions received by you to take military possession of our place, that we are British Subjects and cannot be recognized by Her Majesty the Queen of England as an independent people, etc. etc.

Since then the friendly negotiations which we have commenced with Your Excellency and the proposals which we have made with the view of concluding a permanent peace and alliance with the British Government if only left to the Government of ourselves (a privilege which has not even been refused to the Griquas living upon the borders of your Colony though that people are nothing more than Emigrants from the Colony like ourselves) are now made use of as a reason for entailing the most fearful consequences upon us, we have, for the purpose of well ascertaining the feeling of our fellow-Emigrants, caused the said Proclamation to be distributed amongst them, and invited them to discuss the subject freely by means of a Public Meeting, and to acquaint us with the result, and we can now inform Your Excellency that it is the general feeling of our fellow-Emigrants, and that they have requested us to declare, as we hereby do, that we consider your said Proclamation as most unjust towards us, and calculated, if carried into effect, to occasion the very thing which it is stated to be its principal object to prevent, namely, wars and bloodshed; and as it may probably be the last communication of this nature which we may have an opportunity to make to Your Excellency, we deem it further necessary to enter upon the subject more in detail. We wish to be understood beforehand that it is not our object to give offence, or offer reproach, or to give cause for any hostile acts, since it is our sincere wish and desire to preserve peace with all men, and that nothing will induce us to take up weapons to shed man's blood except the firm conviction alone that we cannot avoid it, or when the protection of our property (obtained hardly and dearly as we conceive) or of our own existence required it, or when we see that force and not Justice is exercised towards us. We know that there lives a

God who governs Heaven and Earth and that He is mighty and willing to protect the wronged, though weak, against the Oppressors, and we trust in Him and the Justice of our cause, and should it be His will that total destruction be brought upon us, our wives and children and all that we possess, we shall be resigned and acknowledge that we have deserved it at His hands, but not from man. We know the power of Great Britain and it is nowise our purpose to dare that power, but we cannot at the same time permit that force in place of Justice should triumph over us without exerting all our endeavors to oppose such force. We do not accuse the British Government to be so disposed, but experience has taught us that mistaken and groundless instructions (as is now again apparently the case with us) emanating from a far distant Country have but too often originated measures which were unjust and oppressive. We deny also most positively that we are animated by a feeling of hatred against the English Nation, every person on earth is naturally more partial to his own than to any other Nation, but as Christians we have learned to love all men; and, although we South African Boers have often been regarded by Englishmen with arrogance and contempt, let the many Englishmen (among whom we include the Scotch also) with whom we have been personally acquainted in our native Country, and amongst whom we have also had Ministers whom we treated with every respect, bear witness! let the Officers and Soldiers with whom we have served in arms bear witness! let our late Governor, Judges, and local Authorities, bear witness! and let the respectable Englishmen themselves who at present live here in security amongst us, and have intercourse with us, bear witness, whether any such feeling of hatred against the English is fostered in our bosoms! At the same time we will not deny that the laws enacted and promulgated in the Colony by the English Government from time to time respecting us, were the only cause for which we left our Country and kindred and betook ourselves as it were to the wilds of the desert to be free of the rule of that Government.

To instance some cases, who was it that forced upon us the increasing evils of Slavery, that secured to us a right of property in it? Was it not the same Government who afterwards deprived us of it, and that in a manner which gave us not the least voice as to the best and most fitting means of effecting it? Who was it that promised us full compensation for our Slaves? Was it not the same Government that put us off with a third of the real value of our property, and then left us a prey to boot to avaricious and money-seeking dealers who have been enriched at the expense of our purses? Who was it that employed us without remuneration

and at our own expense in the defence of the borders of the Colony against the enemy and the hostile or predatory Kaffirs? Was it not the same Government that afterwards denied us all claim to compensation, erroneously stating as a reason that by our plundering of the Kaffirs we had justly drawn down their vengeance upon us? that deprived us of the best Governor we ever had because, like a conscientious man, he defended the wronged Cape Colonists and sought their real security and protection by the punishment of their destructive enemies? that afterwards sent us speculative politicians, bound hand and foot, whose border policy constantly exposed us to be robbed and menaced by the Kaffirs with impunity, and that too at a heavy expense to the Country to be paid out of the purse of the ruined Boer? That same Government that laid the Country open for wandering vagabonds who lead a wild and idle life and live upon the flocks and other property of the already sufficiently oppressed Boer, by which the Boer was deprived of laborers, or, in case he had any, of all necessary authority over them, (and under which the Colonists still suffer), lost all heart, saw his repeated remonstrances and petitions unanswered or unnoticed, and had the darkest prospects. All these evils we ascribe to this single cause, the want, namely, of a representative Government—which was refused us by the Executive Government of that very Nation who consider that privilege as one of the most sacred of their Civil rights, and for which every true Briton would lay down his life.

And what did we do under all this oppression? Did we take up Arms, demanding our rights, as was recently done in Canada? No, we gave the coat also to him who had taken the mantle from us: We parted with our fixed property at a ridiculous price: We openly told the Government that we should leave our Country and their jurisdiction. It was permitted us, at least not prohibited, we were even surprised to hear a most reasonable and just declaration made by the Lieutenant-Governor that it is an indisputable right that a person who is dissatisfied with the rule of his Government is free to leave it. Immediately after our departure we declared our independence; we established a Government of our own, prosecuted wars that came upon us unexpectedly and made peace, took possession of uninhabited tracts of country which we acquired by friendly treaties with the Heathen tribes as well as which we had to purchase with our blood and treasure. Meanwhile what did the Colonial Government during the course of these events?—did it inform us that we could not alienate our allegiance as Subjects wherever we might be, or did it offer us any assistance when we were in need and expected momentarily to be destroyed by the savage and blood-

thirsty heathens, when more than Six hundred of our number had already been most treacherously murdered innocent, or did it remain an indifferent Spectator of the misery of its pretended Subjects whilst total destruction threatened them? But, what is worse, were not their Murderers supported and assisted, when they (the Emigrants) appeared to have any chance of obtaining a victory, by prohibiting the export to them of all arms and ammunition, and even by threats of taking Military possession, as also by confiscation of their own weapons and ammunition, and this indeed under the pretence of preventing from a feeling of philanthropy further bloodshed when no fear existed for the shedding of Christian blood, but when vengeance was about to be wreaked upon those whose hands were still stained with it? further, by prohibiting traffic, in consequence of which many of the Emigrants died during the visitation of the infectious disease of the measles from want of necessaries or food proper or requisite at such a time? And has not the same Government already treated us as foreigners even with respect to our trade by sea, and how is it possible that, with all such reasons on our side, Your Excellency can expect us to consider ourselves as transgressors or rebels against our lawful Government? We declare we cannot see how the British Government under the aforesaid circumstances can, with any the least shadow of reason or justice, claim us as Subjects, unless it be from other political motives, or jealousy, that excuses are sought with some show of justice again to place the despised and neglected Emigrants under the yoke. We strongly doubt, in case we had emigrated into the interior of Africa or to Delagoa Bay, whether we should there also have been molested; yet we still cherish the hope, that, when the present Government of Her Majesty the Queen of England and the British Nation shall have been made *fully* and *truly* acquainted with the whole state of our case, other means will be found to arrange matters with mutual satisfaction than by the Sword, or by blood; and we beseech Your Excellency therefore to take the subject into further consideration and to adopt no measures by which we shall be driven to steps, which, however much against our wish, or painful they may be to us, may yet be unavoidable for our lives and our security, and which may devolve a responsibility upon Your Excellency which sooner or later it may be difficult to account for.

With respect to the reason assigned in your Proclamation for which military possession is to be taken, our resolutions, namely, of the 2nd August 1841, respecting the Kafirs here, we wish merely to observe that, as usually happens, Your Excellency's informant is either ignorant himself of the real state of the case, or has purposely concealed it from you, and we

are able to convince every true philanthropist that our views in making arrangements respecting the removal of the Kafirs (the old inhabitants as well as the later Settlers) both by the resolutions already referred to, as well as another since adopted upon the same subject, are furnished in a true love of humanity, in as much as we have thereby sought to obviate or to prevent the probability of hostility and bloodshed, which would otherwise inevitably result if we permitted Zoolahs and other Natives to leave their former abodes and settle themselves in thousands amongst us, as is at present the case, first to be protected by us against their enemies, and, when they shall have strengthened themselves, to be placed in the best opportunity possible to root us out solely to obtain possession of our cattle; or, their design being detected, they would compel us to attack and expel them without delay. Our measures are thus framed to provide in time, as far as practicable, against the probability of such occurrences, and not to allow the evil to encrease too much or first to become irremediable and then show a disposition to be active. It would be too diffuse to notice here all we have to say upon this head; we proceed therefore to point out that if Faku already had a claim to the tract of land mentioned in Your Excellency's Proclamation he alone is to blame if we made use of that land; in the first place we have proof that in the year 1834 he had already declared that he had no claim to the land, and as far as we have been able to ascertain never occupied the same except with some small Kraals of Spies. Besides, we caused the Contract entered into by the late Mr. Retief with Dingaan to be published as well as our Proclamation in which the Omzimvoobo was appointed as our boundary. Furthermore we entered into a friendly understanding with Faku himself and obtained from and gave him an assurance of peace, and even of protection, so that there was nothing to prevent him from protesting against our disposal of any portion of his territory, in addition to which he freely acknowledged that the land lawfully belonged to Chaka and afterwards to Dingaan as far as the Omzimvoobo, and that he acknowledged our claim thereto to be founded in justice, by the Contract herein before mentioned and by the victory gained by us over that Nation. He went further and said that Chaka and Dingaan had taken the country even to beyond the Umzimvoobo, and that he considered himself and his people to be there by our permission. May we not then ask where there is a Colony or conquered possession of Great Britain, or any other Power to which a stronger claim or right can be asserted? We are convinced that there is not, yet if Faku can prove that neither Chaka nor Dingaan ever had a claim to the land in question

and that that waste and uninhabited tract of country has always been in his possession, who will convince us that notwithstanding this we insisted upon taking possession of it, as upon that ground to give a show of reason to the taking Military possession of our harbour and territory?

We will acknowledge also that, as regards ourselves, we cannot possibly understand the right of Subjects by birth or otherwise as set forth by Your Excellency in your Proclamation. But setting aside this question, we are bound to declare our conviction that we cannot be secure or exist in this Country should we place ourselves again under the jurisdiction of a Colonial Government as before; the Country, which Your Excellency already prematurely disposes of, threatening to take the same from us and our children—would then have no value for us. What prospects have we of enjoying better protection than the Border Colonists enjoy, and on account of which many of us were obliged to leave that land? what prospects have we of enjoying even that protection, since Your Excellency's treatment of us gives us more than reason to suspect that your anxiety and care exist for the uncivilized people alone, and that it will create no great concern should we with our wives and children and servants be led by them like sheep to the slaughter? yes! that the philanthropists of the day will find false accusations enough to make the world believe that we richly deserved it and that it is our own fault!

Fate therefore seems to drive us to one of two alternatives, namely, to bend ourselves like yoke-bearing beasts to carry willingly the burden which may be imposed on us, till finding the same too heavy, we commence emigrating anew as before and leave everything we have in the world behind us here; or, in defence of our rights, our possessions, yes, of our existence itself, to shoulder our Guns and to combat with our Oppressors and by our fall or failure to end our earthly troubles. We leave it to Your Excellency's own judgment, and to the judgment of every sincere Englishman, which is the preferable alternative. Let it be no longer thought that we seek to mislead, or that we are ourselves misled. Experience has taught us all some dear lessons, and whatever our political differences may be respecting our Civil administration Your Excellency will find out that there exists but little difference respecting this one point. And when we shall all have been subjugated at the expenditure of much blood and money, the flame will merely have been suppressed and smothered to burst forth with greater fury upon the day of retribution. It is in Your Excellency's power to prevent these evils, and if indeed it be really Your Excellency's object to prevent further

bloodshed Your Excellency will easily find reasons to countermand Your Excellency's purposed Military Expedition, and to have recourse to other means that might be attended with a more humane and happy result.

It has occasioned us feelings of great regret that from the commencement of our emigration we should constantly have heard how we were unjustly held up to the World as a barbarous people who were impatient of civilized laws and Church discipline and sought to live in a state of licentiousness, each as his inclination prompted: Yet we have more than once shamed our Accusers although we are inexperienced Boers who in their native land never took part in the public affairs of their Country, yet we have succeeded in establishing a form of Government which is daily gaining the public confidence more and more. Divine worship has also been regularly established, and the cultivation of the Country and building are daily increasing. We have already erected a respectable Chapel for holding divine service, and the instruction of youth is upon a good footing. The surrounding warlike Zoolahs have been checked in their constant hostile attacks, so that from a fear for us they very seldom and only stealthily take up arms against us. Two missionaries under our protection are already labouring amongst them, and we have the best prospects that the civilization of that people will be sooner promoted than that of the Kaffirs on the Colonial frontiers. And all this has been accomplished whilst we are only beginning to get out of our difficulties. Your Excellency may therefore well suppose how painful it will be to us to see all our hopes and expectations frustrated at once. One single wrong or impolitic experiment would occasion us irremediable injuries. Already are officious Agents busied in inciting the Kaffirs against us, to their or our own misfortune, and in impressing upon them that we are their oppressors, but that the English are their protectors, and that if they adhere to the English they would get our Cattle as a reward. Your Excellency has probably not given your sanction to it, yet it is done; and can the civilized world ever blame us, if, under such circumstances and under such inhuman persecution, we do and risk everything for the preservation of our lives, and, if obliged to retreat before superior force and seek security farther inland where we may be more concentrated and combat our enemy with greater advantage, can reproach be cast upon us should we seek indemnification from our old debtors the Kaffirs for the losses which we have suffered in the Colony, and since our departure, as well as for our farms, dwellings, and other property which we shall have been obliged to leave behind us here a prey to devasta-

tion? We pray that the Almighty may prevent this, and that it may please Him to grant us a better issue!

Finally, for ourselves as well as at the urgent request of our fellow-Emigrants, we must protest most strongly against the taking possession of any part of this Country, as threatened in Your Excellency's Proclamation of the 2nd December aforesaid, and declare that from henceforth we hold ourselves blameless before God and our consciences and before the World, for the evil consequences of such a step.

We have the honour, with the highest respect, to subscribe ourselves, Sir,

Your Excellency's obed. Servants, the President and Members of the Council of the People,

(Signed) J. PRINSLOO, *President*; H. S. LOMBARD, A. G. SPIES, J. C. KLOPPERS, J. H. BRUWER, P. M. BESTER, JAN DU PLESSIS, L. BADENHORST, W. J. PRETORIUS, L. S. BOTMA, M. H. MARAIS, C. J. VAN HEERDEN, S. W. VAN DER MERWE, M. G. STADLER, C. P. BOTMA, G. H. OTTO, J. BODENSTEIN, K. P. LANDMAN; J. J. BURGER, *Member and Secretary*.

P.R.O., MS. copy in *C.O.* 48/223.

No. 107. DEMANDS FOR CONSTITUTIONAL LIBERTIES.

[Made by the Volksraad of Natal in anticipation of their submission to British rule, 4th Sept. 1843. Addressed to Commissioner H. Cloete,[1] who had arrived in Natal as Her Majesty's Commissioner with instructions to come to a provisional agreement with the Republicans. After making sundry remarks and stating that they were prepared to submit to the Queen's sovereignty, they proceed:]

6th. We take the liberty urgently to request that you will recommend to Her Majesty's Government, that Natal may be considered as a separate Colony, as we deem it of the utmost importance that the Governor should correspond direct with the Home Government, and consequently also act more on his own responsibility; and as we likewise believe that the remoteness from Cape Town, and the distance between this Colony and the Cape, will prevent the Governor of that place from acting otherwise than on information obtained from the highest authority here, which cannot be attended with any utility, but rather to shackle the hands of the Governor here, and at the same time remove much of his own responsibility.—Nevertheless we think that the public funds of this Colony, for

[1] The author of the *Great Boer Trek* (Cape Town, 1856, and London, 1899).

a considerable time, will not be sufficient to give a Governor, under whatever denomination, a large salary. We are also of opinion, that that functionary should of necessity be a person well versed in the Laws by which we are to be governed, if he is to preside in the Court of Appeals, as we have proposed in the sequel; and also acquainted with our language, customs, etc. in order that every inhabitant, even the most humble, may, if requisite, have the more freedom to represent his interest in person.

7th. With reference to the point of Legislation for the Colony, we beg to submit to the favourable consideration of Her Majesty's Government, the following propositions, as, according to our ideas, the most suited to establish universal satisfaction and confidence among the inhabitants, and thus the more readily ensure, whenever such should be required, their willing co-operation with the Government, namely:

That there shall be a Legislative Council, consisting at least of twelve persons, chosen by popular election, which election shall take place every two years,—six members to form a quorum; which number of twelve might be always augmented with the increase of the population.

That the qualification of a Member of Council shall be a residence of at least twelve months previous, and in the possession of a good reputation, and of property, in houses and lands of the value of at least £500.

That the following causes shall incapacitate any person from being nominated as a Member of Council: To lead a bad and dissolute life, such as drunkenness, and the like;—deafness, blindness, or similar bodily infirmities; an Atheist; one unable to read and write the English and Dutch Languages.

That the Members shall be chosen by the Inhabitants of every District and Village, according to the amount of the population of each place;—That no one shall be entitled to vote at the election, unless he be a proprietor of houses or lands, of the value of not less than £150;—having been an inhabitant of the Colony for at least six months, and able to read and write either the English or Dutch Language.

That all Laws, without exception, shall be framed or passed by the Legislative Council, and on being approved by the Governor, have immediate effect; and that no taxes shall be imposed on the inhabitants without a legislative enactment.

That the Governor, or some person in his behalf, shall be entitled to a seat in the Legislative Council, in order to propose, or recommend, such Laws, etc. as also negotiations with the Natives bordering on the Colony, as he shall deem expedient for the benefit and security of the Country.

That the Council shall be at liberty to ask any information that the Governor may be able to afford.

8. Proceeding to make some propositions respecting the judicial and other local institutions here, we deem it necessary to premise, that, in doing so, we have not only had in view the merits of these institutions themselves, but likewise the least expensive mode of carrying them out, and to render them the most acceptable for the present population; it being left to the Council, from time to time, and according to circumstances, to make or recommend any further and necessary alterations in respect thereof.

We deem it desirable that the judicial functions should be administered by local officers, namely, the Landdrost or Magistrate of the District, who shall likewise fill the Situation of Civil Government Agent or Commissioner, as in the Cape Colony, with or without the assistance of District Justices of the Peace, or Special Heemraden, and a Jury, according to the degree of jurisdiction, as well in criminal as in civil cases; —the Landdrost *alone* may have jurisdiction without appeal, in criminal cases to a fine of £1, 10s.; or imprisonment, with or without irons, or spare diet, for a period not exceeding 14 days; and in civil cases, to an amount not exceeding £1, 10s. That the Landdrost, with two special Heemraden, or Justices of the Peace, shall have jurisdiction *without* appeal, in all criminal cases not exceeding a fine of £5; or imprisonment, with or without hard labour, spare diet, or irons, for a period not exceeding one month; or a flogging of not more than 25 lashes;—and in civil cases, to a value not exceeding £5. That in all criminal cases, in which the person shall be subject to a severer punishment, or in all civil cases in which the case in issue exceeds the sum of £5, appeal may be lodged to a higher Court.

That the Landdrosts, with two special Heemraden, or Justices of the Peace, shall hold a monthly Court, and decide by majority of votes; the Landdrost, or one or more of the Heemraden, shall however be at liberty himself to allow appeal in unappealable cases, when they may differ, or when they themselves have some doubt about any legal question, etc.

That there shall be a superior and circuit Court once in every six months in each district, composed of the Landdrosts, of two or more adjoining Districts, and two or more of the Special Heemraden of such District, who shall have jurisdiction, *without* appeal, in all criminal cases in which the prisoner may have been previously guilty adjudged to a fine exceeding £10, or imprisonment with or without hard labour, for a longer period than six months, or to a whipping, in public or private, of more than 75 lashes; or to transportation out of the Colony,

or to confiscation of property, or to capital punishment; in all which cases a verdict of guilty must be returned by a Jury of at least nine persons. All sentences of transportation out of the country, or imprisonment exceeding two years, or where a capital punishment is awarded, shall not be put into execution than after the Fiat of the Governor being obtained. It shall, however, be competent for two of the Members of the Court (exclusive of the Jury), in the event of difference, or any doubt, to refer Sentences of less magnitude to the approval of the Governor.

That the Governor shall have the right to remit or mitigate all sentences in criminal cases.

That the said Court in civil cases, without a Jury, shall have jurisdiction, without appeal, wherein the value in dispute may amount to from £10 to £20; and with appeal, in all questions of greater amount.

That on the nomination of the Inhabitants of each District, who are eligible to serve on a Jury, and on the further recommendation of the Legislative Council, every two years, eight persons eligible to be chosen as Members of Council, shall be proposed to the Governor, of whom four shall be appointed as Special Heemraden, or Justices of the Peace, for that District for the said period; who shall during the continuance of their office, be exempted from all other public duties, and receive for their attendance in Court an allowance of ten shillings each, per day, besides travelling expenses; and they will likewise have the power of Justices of the Peace, as in the Cape Colony.

That the Governor, or Commander-in-Chief, of the Colony, with two or more Members of the Executive Council, shall constitute a Court of Appeal, which Court shall have a Session once in three months.

That all Regulations for the various Courts shall be prepared by the Legislative Council, and submitted for the sanction of the Governor.

That, except in cases where local laws shall be provided, the common laws, both criminal and civil, shall be followed as they are observed in the Cape Colony.

That the Dutch Language shall be used in all Courts of Law, except where the majority of the inhabitants of the District shall speak English.

9. That the Landdrost of each District shall be nominated by the Inhabitants who are entitled to choose a Councillor, and on the further recommendation of the Legislative Council be appointed by the Governor, to serve during good behaviour; that the Governor, however, may refuse to make such appointment, on the ground of incapacity or other unfitness of the

person recommended; and that in such case another election shall take place;—no one being eligible for that office who is not entitled to serve as a Member of Council.

That all other officers (inferior) shall be appointed by the Governor, the preference being given to persons born in the Colony, and possessing the necessary qualifications.

10. That to every town or village, at the request of the inhabitants, municipalities shall be granted; and that the Lands now granted to Villages for grazing, etc. shall not be disposed of in any other manner than to the improvement of the Village, either in waterworks, roads, or the like.

11. With regard to Public Worship, we wish to submit for your recommendation, that every denomination of Christians shall be acknowledged by Government and protected against all violence, persecution, or disturbance;—That the Congregations of every Church shall be at liberty to elect and appoint their own Ministers and other Church Officers, agreeably to their own Church Laws and Regulations, without any meddling or interference on the part of Government; and that the public revenue shall not be burdened with any expenses for the support of any Church Establishment whatsoever; but that the Congregations shall themselves provide therein. That, however, no Idolatry, profane or other blasphemous sects shall be tolerated, which may tend to the corruption of morality, or disturbance of the public peace.

That with respect to the Schools, the Legislature shall make provisions, as in all other legal matters.

12. With respect to our possessions in Lands, we cannot proceed to propose any particulars for your recommendation, without at the same time intimating to you, that this is a subject, in respect of which a general and lively interest is felt, and of the final result whereof, we dare not conceal it to be our firm ideas, that from that will decidedly depend the perfect satisfaction or dissatisfaction, both here and elsewhere, as far as this Colony is inhabited,—a subject which may cause unwished-for consequences if the decision of Her Majesty's Government in that respect should be hard and pressing, or unjust, according to the views of the parties concerned. Yet, on this point we must assure you, that we, relying on the spirit of the declaration made by Her Majesty, cherish a perfect confidence that Her Majesty's Government will be anxious and willing to take our interests into most favorable consideration. We perceive from the 11th Art. of the Proclamation of His Excellency the Governor, hereinbefore alluded to, that, as Her Majesty's Commissioner, you are only empowered to assure to the possessors the tenure of such Lands alone which shall have been *bona fide* occupied for the

space of twelve months, next preceding your arrival at this place; and without any definition as to the probable extent of ground which shall be considered to be a place [*i.e.* a farm]. From the manifold applications which have already been made to you on this point, we hold ourselves assured, that you will have considered, both in equity and justice, and even on the principle of public good, and the advancement of the prosperity of this infant Colony, you cannot well refuse, (in consideration of the particular circumstances herein set forth, and whatsoever else has appeared to you,) to endeavour to move Her Majesty's Government, further to extend the rights of Owners to their places, as has been allowed you by the Proclamation.

They are not only the possessors of occupied Lands who consider themselves as having a just claim thereto, but also those who have obtained their Land under the same authority, who have done and suffered for the Land, and were only prevented from occupying their Land, while the hitherto existing insecurity compelled them either to reside for the present in the villages or small encampments, or to remain for mutual protection on the places of the one or other of their fellow-citizens, until an opportunity should offer that they could without imminent danger to their lives proceed to their places to cultivate and build on their own ground. When therefore all those shall not be entitled to the grants of Land alike with those who were fortunate enough to be able to occupy theirs, the majority of the people will be deprived of Land, and through damages and losses suffered, being reduced to poverty, and consequently unable to purchase from Government, it would not be too much to expect that the utmost dissatisfaction would arise,—and that those persons could be moved to continue in a Country, and therein co-operate for the common welfare, or in bearing the burdens, if they were to be deprived of all participating interest,—or to have the prospect of procuring a resting-place for themselves and their children. We are persuaded that in this case, the number of the present inhabitants on this side of the Draakberg will decrease by at least 50 p. Ct.—The consequences which will result therefrom we will not even venture to sketch; and although we doubt not but Her Majesty possesses the means of ultimately establishing order and submission, we know this for certain, that it will for a considerable time retard the safety and prosperity of this Colony, and that the measures to be adopted by Government would be attended with more expense than all the Lands we now claim are worth.

[Further remarks to prove the right of those to whom titles to land have been issued by the Volksraad.]

13. A free Trade, which we would wish Her Majesty's Government to grant to this Country, with all Nations, even as to the most favoured of the British Colonies.

The trade with the Zoolahs and other Border Nations, we deem necessary to be at first most strongly forbidden, until the necessary laws can be framed in that respect; and under such regulations, that the trade in arms and ammunition may be prevented and prohibited.

14. That no Colonial Paper Money shall be introduced, but only English Sterling Money.

15. That no Burghers of the Land, or their Children, shall be pressed or forced into the Military Service; we consider a request which Her Majesty's Government will readily concede.

16. With respect to the limits of this Colony, to the North, we beg you to recommend, to fix the same to the so-called Drakensberg; (from where all running water takes a course to the sea, South and South-eastward,) until the willingness of the Inhabitants of the very extensive parts to the North of the said Drakensberg shall have been ascertained, to participate in the privileges already granted, or hereafter to be granted to this Colony, by Her Majesty; which measure we deem will be the least expensive, and will bring about a speedier settlement of all matters,—hasten the population of the Country on this side of the Mountain, and make the management so much easier.

17. [The immigration of those only who are able to support themselves on arriving should be allowed.]

18. [Renewed professions of sincerity in submitting to British rule.]

Apologising for the liberty we have taken herein, we have the honour, with great respect, to be, SIR,

Your most obedient humble Servants,

President and Members of the Council,

J. S. MARITZ, *S. Prest.*; G. J. NAUDÉ, A. J. VISAGIE, L. J. MEYER, H. S. VAN DEN BERG, B. POORTMAN, G. C. VILJOEN, E. F. POTGIETER, G. A. R. OTTO, P. G. HUMAN, C. P. BOTMA, P. H. ZIETSMAN, J. A. KRIEL, S. A. CILLIERS, M. J. POTGIETER, P. R. NEL, C. A. BOTHMA, W. A. VAN AARDT.

J. BODENSTEIN, *Secretary of Council.*

P.R.O., MS. copy of translation in *C.O.* 48/235.

BRITISH AUTHORITY CONSOLIDATED. [5 Oct. 1843.]

No. 108. *Treaty* between HENRY CLOETE, Esq., Her Majesty's Commissioner for Natal, and PANDA, King of the Zulus.

ART. 1. There shall be henceforward and for ever peace

and friendship between the undersigned King Panda and his subjects, and Her Majesty Queen Victoria and all Her Majesty's subjects.

2. It is hereby agreed between the undersigned that the respective boundaries between the territory of Natal and the Zoolah nation, shall be defined at the sea-line, by the mouth of the River Tugela, and from thence upwards until the junction of that stream with the River Umsinyaatee (or Buffels River), from thence upwards by the said River Umsinyaatee (or Buffels River), or such other boundary line along or near its banks, as may, at any time hereafter, be fixed upon by the undersigned, Her Majesty's Commissioner for the territory af Natal, or such other Commissioner as Her Majesty may appoint, and by any two Indunas or Commissioners, whom the undersigned Panda, King of the Zoolah nation, may appoint for that purpose, and from thence northward to the foot of the Quathlamba (or Draaksberg) mountains.

3. The undersigned Panda, King of the Zoolah nation, hereby agrees and binds himself to direct Koedoe, the captain of certain kraals placed by the late King Dingaan on the right bank of Tugela, and all such other captains or Chiefs of kraals as may be found to come within the boundaries of the territory of Natal, hereby fixed and determined, to be removed from their respective stations.

The undersigned, Her Majesty's Commissioner, for, and on behalf of, Her Majesty, hereby agreeing and consenting to allow them to remain until their crops shall have been reaped and then to take with them all their effects and lawful property.

Thus done, and agreed upon, and confirmed, by the signature and marks of the undersigned, King Panda, and the undersigned, Her Majesty's Commissioner, at the chief town of Elapeen, on this the 5th day of October 1843, in the presence of the undermentioned witnesses.

(Signed) This is the mark of the King × PANDA, made by himself.
This is the mark of the Induna × UMVUNHLAAN, made by him.
This is the mark of the Induna × UMKONDANI, made by him.

(Signed) H. CLOETE, L.L.,
Her Majesty's High (sic) *Commissioner.*

Witnesses—
(Signed) D. C. TOOKEY.
C. J. BUISSINE.

Parl. Papers, S. Africa, C.O. (42), 1884, p. 56.

No. 109. ANNEXATION OF NATAL TO THE CAPE COLONY.

[Letters Patent, dated 31 May 1844.]

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, Greeting:

WHEREAS by letters patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster, the Nineteenth Day of December, One Thousand Eight Hundred and Forty-three, in the Seventh Year of Our Reign,—We did constitute and appoint Our Trusty and Well-beloved Sir Peregrine Maitland, Knight, Commander of the Most Honourable Military Order of the Bath, Lieutenant-General of Our Forces, to be Our Governor and Commander-in-Chief, in and over Our Settlement, at the Cape of Good Hope, in South Africa, with its Territories and Dependencies, as also of the Castle, and all Forts and Garrisons erected, or established, or which should be erected or established, within the said Settlement, Territories and Dependencies.

And Whereas, since the date of the said recited letters patent, it hath seemed good to us to annex to the said Settlement of the Cape of Good Hope, the Territories occupied by Our Subjects throughout the District of Natal, in South Africa;—Now know Ye, that We of Our especial Grace, certain knowledge and mere motion, have annexed and do hereby annex the said District of Natal to Our said Settlement of the Cape of Good Hope, as a part and portion thereof.

PROVIDED, nevertheless, and We do hereby declare Our pleasure to be that no law, custom or usage now in force within our said Settlement of the Cape of Good Hope, shall by force and virtue hereof extend to and become in force within the said District of Natal, and that no Court or Magistrate of or within Our said Settlement of the Cape of Good Hope shall by force or virtue hereof acquire, hold or exercise any jurisdiction within the said Colony of Natal, but that it shall be competent to and for the Legislature of Our said Settlement of the Cape of Good Hope, to make, ordain and establish all such laws and ordinances as to them shall seem meet, for the peace, order and good government of the said District of Natal, whether in conformity or not in conformity with the laws and ordinances in force within the other parts of Our said Settlement of the Cape of Good Hope, any letters patent, charters, orders in council, local ordinances, or other law or usage to the contrary notwithstanding. Provided always, that all laws and ordinances so to be made as aforesaid for the peace, order and good

government of the District of Natal, shall be so made in such and the same manner, and with, under and subject to all such and the same conditions, restrictions and reservations as are or shall be in force within Our said Settlement, in respect to the making of laws and ordinances for the peace, order and good government of other parts thereof. And we do hereby reserve to ourselves full power and authority to revoke or alter these presents, as to us shall seem meet. In witness whereof, we have caused these Our Letters to be made Patent.

Witness Ourself at Westminster, this Thirty-first Day of May, in the Seventh Year of Our Reign.

By Writ of Privy Seal,

EDMUNDS.

P.R.O., C.O. 52/11 (*C. of G. Hope Govt. Gazette*, 22 Aug. 1845.)

MAINTENANCE OF BRITISH AUTHORITY OVER ALL EMIGRANTS. [21 Aug. 1845.]

No. 110. *Proclamation.*—By His Excellency Lieut.-General Sir PEREGRINE MAITLAND, Knight Commander [etc.].

WHEREAS in and by a Proclamation bearing equal date with these presents, I have referred to certain Letters Patent of Her Majesty the Queen, annexing the District of Natal to the Settlement of the Cape of Good Hope, as a part or portion thereof; and have also declared and made known the limits which, for the time being, Her Majesty has been pleased to assign to the said District; and whereas there is reason to apprehend that ignorant persons may mistake, and that evil-minded persons may misrepresent, the true nature and effect of the said Proclamation, and may treat and consider, or affect to treat and consider, the same as a tacit renunciation of the Royal Authority of Her said Majesty over such of Her Subjects as may remove to or reside in Territories beyond the limits of the said Districts: and whereas any such impression upon the part of any of Her Majesty's Subjects, would be wholly irrational and unfounded, and productive of the most dangerous consequences to all who should presume to act upon it:—NOW, THEREFORE, I DO HEREBY PROCLAIM, DECLARE, and MAKE KNOWN, for the warning and information of all whom it may concern, that Her Majesty the Queen, by graciously establishing in the District of Natal a settled form of Government, is not to be understood as in the least renouncing Her rightful and sovereign authority over any of Her Subjects residing or being beyond the limits of the said District; that while such of Her Subjects as shall peaceably reside within the

said limits, shall enjoy a degree of protection which cannot be afforded to others resident beyond the same, the latter, if guilty of crimes or offences, will be equally amenable to justice, and exposed to punishment; that the Acts of Parliament made and passed in the reign of His late Majesty King William the Fourth, for the prevention and punishment of Offences committed by British Subjects within Territories adjacent to the Cape of Good Hope, will still remain in full force and operation, in regard to all such Subjects as last aforesaid; and that the establishment in the Natal District of an efficient Government and administration of Justice, instead of countenancing any idea that Her Majesty has abandoned her avowed determination not to permit any of Her Subjects, wherever resident, to affect independence, or act without control, will powerfully tend, in connexion with other arrangements lately entered into, and now in progress of completion, to repress any tendency to violence or injustice amongst any of Her Subjects sojourning beyond Her Majesty's Dominions, and secure the peace and good order of every portion of South Africa, in which such Subjects may have settled.

GOD SAVE THE QUEEN.

P.R.O., C.O. 52/11 (*C. of G. Hope Govt. Gazette*, 22 Aug. 1845.)

NATAL A SEPARATE COLONY.

[Letters Patent, dated 30 April 1845.]

No. 111. *Grant.*—Erecting the District of NATAL into a Separate Government.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, Greeting:

[Letters Patent appointing Sir Peregrine Maitland Governor of the Cape Colony, and Letters Patent annexing Natal to the Cape Colony, recited.]

. . . whereas We have deemed it expedient that the . . . district of Natal should be erected for certain purposes into a distinct and separate government to be administered in manner hereinafter mentioned: Now, therefore, We do hereby declare Our will to be and by these presents do constitute and appoint that the said district of Natal shall henceforth be constituted and become a distinct and separate Government to be administered in Our name and on Our behalf by a Lieutenant-Governor, to be by Us for that purpose appointed by warrant under our Royal Sign Manual and Signet to be countersigned

by one of Our principal Secretaries of State, and in the event of the death, or absence, or incapacity of any such Lieutenant-Governor, or in the event of there being no person in the said district commissioned by Us to be Lieutenant-Governor as aforesaid, then and in every such case Our will and pleasure is that the said office shall be administered provisionally by some person to be for that purpose appointed by the Governor and Commander-in-Chief, or by the officer for the time being administering the government of the said settlement of the Cape of Good Hope, by a Commission to be for that purpose issued under the public seal of the said settlement, which provisional appointment shall continue in force until Our pleasure shall be known and no longer: and We do hereby give and grant to such Lieutenant-Governor for the time being, or to such person as may be provisionally appointed to administer the government of the said district of Natal as aforesaid, all such powers and authorities within such district as by the said recited Letters Patent of the 19th day of December, in the seventh year of Our reign, are granted to and vested in the said Sir Peregrine Maitland as Governor and Commander-in-Chief in and over the said settlement of the Cape of Good Hope; subject, nevertheless, to all such restrictions and limitations as are set forth in the said recited Letters Patent of the 31st day of May 1844, . . . as well as to all such rules and regulations as shall be made and established by such instructions as hereinafter are mentioned for the practicable and convenient exercise of such power and authority: Provided, nevertheless, and We hereby declare Our will and pleasure to be that it shall be lawful for the said Sir Peregrine Maitland, or for the officer for the time being administering the government of the said settlement from time to time, as occasion shall require, and as he shall be directed by such instructions as aforesaid to repair to the said district of Natal and to assume the government thereof in person and during such his residence therein, We do further declare Our pleasure to be that all and every the powers and authorities in and by the said recited Letters Patent in him vested in and over the said district of Natal shall revive, and that, during the same period or periods all and every the powers and authorities by these presents vested in such Lieutenant-Governor shall be and are hereby suspended: Provided also, and We do further declare Our will and pleasure to be that nothing herein contained shall extend or be construed to extend to take away, abridge, or alter all or any of the powers and authorities in and by the said recited Letters Patent given to the Legislature of Our said settlement of the Cape of Good Hope, to make, ordain, and establish all such laws and ordinances as to them shall seem

meet for the peace, order, and good government of the said district of Natal; but that the said Legislature shall have, hold, exercise, and enjoy such power and authority as aforesaid of making such laws and ordinances as aforesaid for the said district as fully and effectually as if these presents had not been made: and Our will and pleasure further is, that in the execution of the powers hereby vested in the said Lieutenant-Governor for the time being, or such person so provisionally appointed as aforesaid, he do in all respects conform to and obey all such orders and instructions as shall for that purpose be addressed to him by Us in Our Privy Council or under Our Signet and Sign Manual, or through one of Our principal Secretaries of State; and We do hereby reserve to ourselves full power and authority to revoke or alter these presents as to Us shall seem meet. In witness, etc. Witness, etc. the 30th day of April.

By writ of Privy Seal.

I certify the foregoing to be a true and authentic copy.

JOSEPH BURTT, *Assistant Keeper of the Public Records.*

2 July 1868.

[Patent Roll—8 Victoria—Part 27 (No. 6).]

Parl. Papers, Natal, 22 July 1868, No. 454, p. 21.

LEGISLATIVE COUNCIL ESTABLISHED.

[Letters Patent, dated 2 March 1847.]

No. 112. *Grant.*—Establishing a Legislative power in the District of NATAL.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, Greeting:

[Letters Patent of 31st May 1844, and of 30th April 1845, recited.]

. . . whereas We did by both the aforesaid Letters Patent reserve to Ourselves full power and authority, to revoke and alter the same as to Us should seem meet. Now know you that We have revoked and determined, and do by these presents revoke and determine so much, and such part only, and no more of both the said recited Letters Patent of the 31st day of May 1844, and of the 30th day of April 1845, as empowers and authorises the Legislature of the Cape of Good Hope to make, ordain, and establish laws and ordinances for the peace, order, and good government of the said district of Natal.

And We do hereby further grant, ordain, and declare, that the officer, for the time being, administering the government of the said district of Natal, and such three, or more other persons as shall, from time to time, be by Us for that purpose named, or designated by any instruction or instructions, or warrant or warrants, to be by Us for that purpose issued under Our Sign Manual and Signet, and with the advice of Our Privy Council shall constitute, and be a Legislative Council for the said district of Natal, and shall hold their places therein during Our pleasure. And We do by these presents further grant, ordain, and declare, that the said Legislative Council shall have full power and authority to make, constitute, and ordain all such laws and ordinances, as may be required for the peace, order, and good government of the said district of Natal. Provided nevertheless, and We do hereby reserve to Ourselves full power and authority, from time to time, as We shall see occasion to disallow any such laws or ordinances. And We do declare that any such law or ordinance shall cease to be of any force or authority within the said district of Natal immediately upon, and after the publication therein by the officer administering the government thereof, of a Proclamation notifying the receipt by him of any such order of disallowance which Proclamation every such officer is hereby required to issue with the least practicable delay after the receipt by him of any such order. And We do hereby further ordain, direct, and appoint that in the enactment of any such laws and ordinances as aforesaid, the officer, for the time being, administering the Government of the said district, shall conform to, and observe all such orders as We shall see fit to make for his guidance therein, by any instructions to be by Us from time to time issued under Our Sign Manual and Signet with the advice of Our Privy Council. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority, from time to time, as We shall see occasion to revoke, alter, and amend these presents, or any part thereof. In witness, etc. Witness etc. the 2nd day of March.

By writ of Privy Seal.

I certify the foregoing to be a true and authentic copy.

JOSEPH BURTT, *Assistant Keeper of the Public Records.*

2 July 1868.

[Patent Roll—10 Victoria—Part 25 (No. 3).]

Parl. Papers, Natal, 22 July 1868, No. 454, p. 22.

CHARTER OF NATAL.

[Letters Patent, dated 15 July 1856.]

No. 113. *Erecting* the District of NATAL into a Separate Colony and Providing for the Government thereof.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, Greeting:

WHEREAS We are desirous of making provision for the more effectual Government of the Territories occupied by Our Subjects throughout the District of Natal in South Africa.

[Letters Patent of 31st May 1844, of 30th April 1845, and of 2nd March 1847, recited.]

And whereas by certain other . . . Letters Patent bearing date at Westminster the fifteenth day of January, one thousand eight hundred and fifty . . . We did declare Our will and pleasure that if at the time of the death, absence or incapacity of Our Lieutenant-Governor of Our said District of Natal there should be no person within Our said District commissioned to be such Lieutenant-Governor, then and in every such case the Senior Officer for the time being in command of Our Troops in Our said District should take upon himself the administration of the Office of Lieutenant-Governor of Our said District until some person should have been provisionally appointed by Our Governor of Our Colony of the Cape of Good Hope or by the officer for the time being administering the Government of Our said Colony, to administer the aforesaid Office of Lieutenant-Governor of Our said District of Natal,

And whereas in all the above recited Letters Patent We did reserve to Ourselves power to revoke the same,

[1] Now Know Ye That We have revoked and determined and do by these presents revoke and determine the aforesaid several recited Letters Patent and all and every the clauses, articles and things therein contained except as hereinafter provided, so far only excepted, and no further, that the Legislative Council of Our said District of Natal as constituted by Our said recited Letters Patent of the second day of March, one thousand eight hundred and forty-seven, in the tenth year of Our Reign shall continue to hold, exercise and execute all and every the authorities, powers and functions given and granted by Us to the said Council by Our said Letters Patent, until the return of the first Writs for the election of the members of the future Legislative Council as constituted under and by virtue of these presents, and no longer.

And further Know Ye That We of Our especial grace, certain knowledge and mere motion have thought fit to erect and do hereby erect the said District of Natal into a separate Colony, and the same is hereby erected into a separate Colony accordingly, to be called the Colony of Natal.

[2] And We do hereby declare and appoint that the Government of Our said Colony shall be administered by a Governor duly commissioned by Us, or in the event of his death, incapacity or absence from Our said Colony, or if no Governor shall have been commissioned by Us, by a Lieutenant-Governor [or other person duly appointed].

[3] And We do hereby grant, appoint and ordain that all the powers, directions and authorities hereby given and granted to Our Governor for the time being of Our said Colony of Natal shall be and the same are hereby given and granted to Our Lieutenant-Governor for the time being of Our said Colony or other person for the time being administering the Government of Our said Colony until Our further pleasure shall be signified thereon.

[4] And We do hereby authorize and empower Our Governor of Natal to keep and use the Public Seal appointed for the sealing of all things whatsoever that shall pass the seal of Our said Colony.

[5] And whereas it is expedient that there shall be an Executive Council to advise and assist Our Governor of Natal, We do by these Our Letters Patent authorize and empower Our said Governor to summon as an Executive Council such persons as shall from time to time be named or designated by Us in any instructions under Our Sign Manual and Signet addressed to him in that behalf.

[6] And whereas it is expedient to alter the constitution of the Legislative Council of the said Colony, We do hereby grant, appoint and ordain as follows: We do hereby authorize and empower Our said Governor of Natal with the advice and consent of the Legislative Council thereof to make all such laws as may be necessary for the peace, order and good government of the said Colony, provided that the same be not repugnant to the Laws of England.

[7] The Legislative Council of Natal shall consist of sixteen members, of whom twelve shall be elective and four non-elective.

[8] The non-elective members shall consist of such Public Officers within the said Colony or of such other persons within the same as shall from time to time be named or designated for that purpose by Us by any instruction or instructions or warrant or warrants to be by Us for that purpose issued under Our Sign Manual and Signet with the advice of Our

Privy Council which said Councillors shall hold their places in the said Council at Our pleasure.

[9] It shall be lawful for Our said Governor upon the death, resignation, incapacity or absence from the said Colony of any such non-elective members of the Legislative Council to appoint a substitute who shall act provisionally in the place of such member until other provision shall be made by Us.

[10] The elective members shall be chosen by the electors of the following eight electoral districts, that is to say:

1. Two for the County of Klip River.
2. One for the County of Weenen.
3. One for the County of Umvoti.
4. Two for the County of Pietermaritzburg.
5. One for the County of Durban.
6. One for the County of Victoria.
7. Two for the Borough of Pietermaritzburg.
8. Two for the Borough of Durban.

[11] Every man, except as hereinafter excepted, above the age of twenty-one years, who possesses any immovable property of the value of Fifty pounds or who rents any such property of the yearly value of Ten pounds within any electoral district and who is duly registered in manner hereinafter mentioned, shall be entitled to vote at the election of a member for such district. When any such property as aforesaid is occupied by more persons than one as proprietors or renters, each of such occupants being duly registered shall be entitled to vote in respect of such property, provided the value, or as the case may be, the rent thereof, be such as would entitle each of such joint occupants to a vote if equally divided among them.

[12] Aliens, not having been naturalized by some Act of the Imperial Parliament, or of the Legislature of Natal, and persons who shall have been convicted of any treason, felony, or infamous offence, and shall not have received a free pardon, shall not be qualified to vote at any such election.

[13] No person shall be capable of being elected a member of the Legislative Council unless he shall be a duly qualified and registered elector for some electoral district in the Colony, nor unless he shall have been invited to become a candidate for such election, by at least ten electors of the County or Borough which it is proposed he shall represent; nor unless such requisition shall have been transmitted to the Resident Magistrate of the County or Borough with a notification of the said Candidate's acceptance thereof, at least fourteen days before such election is appointed to take place.

[14] If, in any electoral district, any person shall sign requisitions to more than one Candidate for each vacancy in the

Legislative Council, in respect to which he is entitled to a vote, his signature shall be expunged from all requisitions which he shall have so signed.

[15] The Resident Magistrate shall, at least seven days before the day appointed for the commencement of the Poll, cause the said requisitions to be published for the information of the Electors.

[16] Our said Governor shall by proclamation in the *Government Gazette* fix the time and place or places for holding the Sessions of the Legislative Council provided that the said Legislative Council shall be convoked within six months after Our said Governor shall have received these presents and once at least in every subsequent year.

[17] Our said Governor may by proclamation prorogue or dissolve the Legislative Council when he shall think fit; and in the absence of such dissolution the elected members of the Legislative Council shall hold their seats for four years from the day of the returning of the first Writs for the election of members to the said Council, and no longer.

[18] If any member of the Legislative Council shall by writing under his hand addressed to Our said Governor resign his seat in the said Council or shall without the permission of Our said Governor first obtained, fail during a whole Session to give his attendance in the said Council or shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power, or shall do . . .[1] in or adopt any act whereby he may become the Subject or Citizen of any such State or Power or shall become a Bankrupt or an Insolvent Debtor or a Public Defaulter or be attainted of treason or be convicted of felony or any infamous crime or shall for the period of one month remain a party to any contract with the Government, or if any elective member shall accept any offer of emolument from the Government his seat in the said Council shall thereupon become vacant.

[19] Whenever it shall be established to the satisfaction of Our said Governor that the seat of any elected member of the Legislative Council has become vacant Our said Governor shall forthwith issue a Writ for the election of a new member to serve in the place so vacated during the remainder of the term of the continuance of such Council, but if any question shall arise respecting the fact of such vacancy it shall be referred by Our said Governor to the said Council and shall be heard and determined by them.

[20] No member of the Legislative Council shall vote or sit therein until he shall have taken and subscribed the following

[1] One word of the MS. is indistinct.

Oath before Our said Governor or some person authorized by him to administer such Oath:

"I, *A. B.*, do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty, So help me God."

But every person authorized by Law to make a solemn affirmation or declaration instead of taking an Oath may make such affirmation or declaration in lieu of the said Oath.

[21. Legislative Council to elect a Speaker subject to the Governor's confirmation.]

[22. Speaker to preside at meetings of Legislative Council.]

[23. Quorum of Legislative Council to be six.]

[24. Questions to be decided by majority of members present. When votes are equal, Speaker shall have a casting vote.]

[25. Council to frame its rules and orders subject to the Governor's confirmation.]

[26] The Legislative Council shall not pass nor shall Our said Governor assent to any Bill appropriating any part of the Public Revenue for any purpose which shall not first have been recommended to the Council by Our said Governor during the Session in which such Bill was proposed, and no part of the said Revenue shall be issued except in pursuance of a Warrant under the hand of Our said Governor directed to the Public Treasurer of the Colony.

[27. Civil List reserved. Treasurer of the Colony to account for all revenues to the Lords Commissioners of the Treasury of the United Kingdom.]

[28. Governor may transmit drafts of Bills for the Legislative Council's consideration.]

[29] Whenever any Bill has been passed by the Legislative Council it shall be presented to Our said Governor, who may either return the same by message for the reconsideration of the Council with such amendments as he may think fitting, or may assent to the same subject to such instructions as he may receive from Us in regard to such Bills, or may declare that he refuses his assent to the same or that he reserves the same for the signification of Our pleasure thereon.

[30. Laws assented to by the Governor may be disallowed by the Crown within two years. From the date of publication of such disallowance within the Colony such law shall be considered null and void.]

[31] The Field-Cornet in every ward shall . . . make a true list . . . of all men, who shall be . . . qualified to vote . . . for members of the Legislative Council. . . .

[32] The Field-Cornet shall forthwith transmit such list to the Resident Magistrate of the County, or Electoral District, in which such ward is situated.

[33] When the Resident Magistrate has received such lists from the Field-Cornet, he shall forthwith cause them to be published, and to every list so published he shall subjoin a notice that all objections thereto will be heard and determined by him, at such time, or times, as Our said Governor may, by proclamation, fix for that purpose.

[34] The Resident Magistrate, after hearing such objections, shall strike out of the lists all names which shall have been improperly inserted, and insert all names which shall have been improperly omitted therein. . . .

[35] A copy of the list of voters in every ward . . . shall be transmitted . . . to the Field-Cornet of such ward. . . .

[36] This list shall be called "The Voters' Roll" of the ward, and shall be brought into use on such day as may be fixed by Our said Governor by Proclamation for that purpose, and shall continue to be used for one year then next ensuing.

[37] Any person may inspect or take a copy of such roll gratuitously.

[38] The Field-Cornet in every ward shall, in like manner, on the 1st of July in every succeeding year, make a similar list of all men who shall be at such time qualified to vote for members of the Legislative Council, and the same proceedings shall be had and taken in respect thereof, as are hereinbefore specified, respecting the first election, and he shall give notice, as hereinbefore mentioned, that objections will be heard and determined at some time to be fixed before the twenty-first day of August then next ensuing, and the voters' roll shall be brought into use as hereinbefore mentioned, on the first day of September in every year.

[39–49. Manner of taking the poll. Precautions against false impersonation at polling stations. Resident Magistrates to publish the result of elections in their respective areas.]

[50. In case of an equality of votes the decision is to be by lot.]

[51] It shall be lawful for Our said Governor by any Law to be enacted by him with the advice of the Legislative Council to be constituted under and by virtue of these presents to repeal, alter or amend all or any of the provisions made by or in virtue of these presents and to substitute other provisions in lieu thereof, provided that no such Law shall abridge the power hereinbefore reserved to Our said Governor of reserving any Bill passed by the Legislative Council for the significance of Our pleasure thereon or the power reserved to Us of disallowing any Law; and provided also that every Law shall be reserved by Our said Governor for the significance of Our pleasure which shall diminish the Salary of any Officer holding

Office or by which any alteration shall be made in any of the following particulars, namely :

The respective numbers of the Elective and Non-elective Members of the Legislative Council,

The qualifications of the said Elective Members and of their Electors,

The Salaries annexed by the Reserved Civil List to the Officers, Governor, Judge and Secretary for Native Affairs, or the annual payment of Five thousand pounds for Native purposes.

[52. Governor may, within six months of the date hereof, vary by proclamation any of the provisions herein contained relating to the registration of voters, to returning officers, to the issuing of writs for elections, and to the manner of taking the poll.]

[53. Colony may be divided into counties, wards, and townships.]

[54. Governor in Council may make grants of Crown lands.]

[55] And We do hereby authorize and empower our said Governor to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer, Justices of the Peace, and other necessary Officers and Ministers in Our said Colony for the due and impartial administration of Justice and for putting the Laws into execution and to administer or cause to be administered unto them such Oath or Oaths as are usually given for the due execution and performance of their offices. . . .

[56. Governor may suspend from office any official appointed by the Crown, till the Queen's pleasure be known.]

[57. Governor may pardon any offender convicted of any crime either freely or conditionally. He may remit certain fines and penalties.]

[58] And We do reserve to Ourselves full power and authority to amend, alter or revoke these Our Letters Patent as to Us shall seem meet. In witness, etc. Witness, etc. the fifteenth day of July.

[Schedules follow here.]

By Her Majesty's Command.

P.R.O., Patent Roll, 20 Victoria, Part I., No. (6).

NATIVE FRANCHISE. [24 Aug. 1865.]

No. 11, 1865.

No. 114. *Law.*—Disqualifying certain Natives from exercising Electoral Franchise.[1]

WHEREAS the numerous Natives residing in this Colony are, by the 28th article of Her Majesty's Instructions, given at

[1] Cf. Native Administration Laws of 1875, 1878 and 1887.

Buckingham Palace on the 8th day of March 1848, under the Royal Sign Manual and Signet, placed under special control, and made subject to their own laws, customs and usages, and are consequently only partially brought under the operation of the general Laws of the Colony. And whereas, by Her Majesty's Letters Patent given at Westminster the Fifteenth day of July, in the Twentieth Year of Her Majesty's Reign, erecting Natal into a separate Colony, and amongst other provisions therein contained constituting an Elective Legislative Council for the said Colony, it is by the said Letters Patent declared and ordained that every man above the age of twenty-one years, save and except certain persons disqualified by the provisions of the said Letters Patent, who possesses any immovable property to the value of £50, or who rents any such property of the yearly value of £10, and who is duly registered, shall be entitled to vote at the election of a member for the said Legislative Council: And whereas it is contemplated to grant to the said Natives documentary titles to certain lands within the said Colony by which many of the said Natives would become possessed of the property qualification required to exercise the electoral franchise under the said Letters Patent; and whereas it is deemed to be inexpedient that the said Natives should, ... so long as they continue subject to the special provisions of the aforesaid 28th article of Her Majesty's Instructions, exercise the said privilege: And whereas by Law No. 11 of 1864, entituled: "For relieving certain persons from the operation of Native Law," provision is made whereby such natives as [shall become fairly civilised] shall be enabled ... to take out certain letters of exemption by which they become exempted from the operation of Native Laws, Customs and Usages, and in their persons and property become subject to the general laws of the Colony: And whereas for the before cited reasons it is expedient by Law to exclude such of the Native population as shall continue subject to Native Law from claiming the electoral franchise, and to define which of the said Natives so exempted shall be entitled to claim the rights and privileges granted by the said Royal Letters Patent, and in these respects to alter or amend the provisions of the said Royal Letters Patent:

Be It Therefore Enacted by the Lieutenant-Governor of the Colony of Natal, by and with the consent of the Legislative Council thereof, as follows:

1. Every male native resident in this Colony or having the necessary property qualification therein, whether subject to the operation of the native laws, customs and usages in force in this Colony or exempted therefrom save as in this law is provided, shall be disqualified from becoming a duly regis-

tered elector, and shall not be entitled to vote at the election of a member of the Legislative Council for any electoral district of the Colony of Natal.

2. Any male native inhabitant of this Colony who shall show to the satisfaction of the Lieutenant-Governor that he has been resident in this Colony for a period of twelve years or that he has been occasionally resident therein equivalent to a twelve years' residence and who shall possess the requisite property qualification and shall have been exempted from the operation of native law for a period of seven years, and who shall produce to the Lieutenant-Governor a certificate signed by three duly qualified electors of European origin as near as may be to the form in Schedule A hereunto appended and endorsed by a Justice of the Peace or Resident Magistrate of the district in which such native resides, a statement to the effect that the Justice or Resident Magistrate endorsing said certificate has no reason to doubt the truth of said certificate and that the persons signing it are credible persons, shall be entitled to petition the Lieutenant-Governor of Natal for a certificate to entitle him to be registered as a duly qualified elector for that electoral division in the Colony in which such native may possess the requisite property qualification.

3. The Lieutenant-Governor may direct that the application of any such native be published in the *Government Gazette* and call upon any person having objection to any such native becoming a duly qualified elector to submit such objection in writing to the Secretary for Native Affairs for the consideration of the Lieutenant-Governor.

4. The Lieutenant-Governor may make such rules and orders in and about the publication of any such application and receiving, and entertaining, and deciding upon, any objection thereto, as may to him seem necessary.

5. The Lieutenant-Governor may, at his discretion, grant or refuse to any native applying in manner aforesaid for such certificate, entitling him to be registered as a duly qualified elector, provided always no such certificate shall be granted unless it shall have been published in manner described in Clause 3, at least three months previous to the granting thereof.

6. Every male native who shall have been exempted from the operation of native law, customs and usages, for a period of seven years, and who shall have obtained a certificate from the Lieutenant-Governor entitling such native to be registered as an elector, and who shall be possessed of the immovable property qualification required by any law in force for the time being in that behalf, shall be entitled to be duly registered as an elector, and when registered shall be entitled to

vote at the election of a Member of the Legislative Council for such District in which he may possess such property.

7. Every male native to whom such certificate shall have been granted by the Lieutenant-Governor shall so long as he may possess the requisite property qualification and who shall not be convicted of treason or of any infamous crime, or of any crime which, if committed in England, would be felony, shall, subject to the provisions of Her Majesty's Letters Patent given at Westminster the fifteenth day of July, in the twentieth year of Her Majesty's reign, or any law in force for the time being in that behalf, be entitled to vote at the election of a member of the Legislative Council for the district in which he may possess such property qualification.

8. This law shall come into force and take effect on and after the publication by proclamation of the Lieutenant-Governor in the *Government Gazette* of Her Majesty's assent to the same.

[Schedule.]

P.R.O., C.O. 180/3

ECCLESIASTICAL GRANTS. [22 Sept. 1869.]

No. 7, 1869.

No. 115. *Law.*—To abolish Ecclesiastical Grants from the Public Revenue within the Colony of Natal

WHEREAS the Legislative Council of this Colony did, on the 4th day of July 1866, pass the following resolution, viz.:

> "That it is the opinion of this House that all Annual Grants of Money now made by Government to Ecclesiastical Bodies, or all forms of State Aid to Religion, should cease."

And whereas it is expedient to give permanent legal force to aforesaid resolution, and that perfect religious equality should be secured within the Colony, and for that purpose that the payment of all Ecclesiastical Grants from the Public should cease and determine.

Be It Therefore Enacted by the Lieutenant-Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:

1. That from and after the passing of this law, no further annual grant of money shall be made by the Government to any person holding any ecclesiastical appointment, nor shall any kind of State aid be given to any ecclesiastical body or person as such, in any form or manner whatsoever, either in land or otherwise.

2. [Present annual grants shall lapse on determination of

recipients' office, except in such cases as may now be waiting the decision of Government.]

3. [Law to take effect from the date of promulgation.]

P.R.O., C.O. 180/4.

ELECTORAL DIVISIONS. [12 July 1873.]

No. 1, 1873.

No. 116. *Law.*—To readjust the Electoral Divisions of the Colony of Natal.

WHEREAS by the Royal Charter of Natal, bearing date the 15th day of July 1856, it is provided in the 51st section thereof, that "it shall be lawful for the Lieutenant-Governor, with the advice of the Legislative Council, to be constituted under and by virtue of these presents, to repeal, alter, or amend all or any of the provisions made by or in virtue of these presents, and to substitute other provisions in lieu thereof, under certain reservations, among others that every Law altering "The respective numbers of elective and non-elective members of the Legislative Council" shall be reserved for the signification of Her Majesty's pleasure with respect thereto:

And whereas it is advisable to alter the respective numbers of the elective and non-elective members of the Legislative Council:

Be it therefore enacted by the Lieutenant-Governor, with the advice and consent of the Legislative Council:

1. That Clause 7 of the said Charter shall be, and is hereby repealed, and in lieu thereof shall be substituted as Clause 7 the words following: That the Legislative Council of Natal shall consist of twenty members, of whom fifteen shall be elective, and five non-elective.

2. Clause 10 of the said Charter is hereby repealed, and in lieu thereof it is hereby enacted: That the elective members shall be chosen by the electors of the following ten electoral districts, that is to say:

1. Two for the County of Klip River—exclusive of the Division of Newcastle.
2. One for the Division of Newcastle.
3. One for the County of Weenen.
4. One for the County of Umvoti.
5. Two for the County of Pietermaritzburg.
6. One for the County of Durban.
7. One for the Counties of Alexandra and Alfred.
8. Two for the County of Victoria.
9. Two for the Borough of Pietermaritzburg.
10. Two for the Borough of Durban.

The three additional elective members, namely, one member for the Division of Newcastle, one member for the County of Victoria, and one member for the Counties of Alexandra and Alfred, shall, within four months after the promulgation of this Law, be elected in the manner provided by the Charter for filling vacancies of elective seats, until such time as under a general election, the returns shall be made as elsewhere provided in the Charter. The fifth non-elective member of the said Council shall be from time to time named or designated in terms of the 8th section of the said Charter.

3. [First elections in new electoral districts provided for.]

4. [Law to take effect from the date of promulgation.]

P.R.O. C.O. 180/4.

CONSTITUTION AMENDMENT LAW, 1875.

[23 Sept. 1875.]

No. 3, 1875.

No. 117. *Law.*—To increase the number of Members in the Legislative Council of Natal.

[Preamble.]

Be It . . . Enacted by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. The Law No. 1, 1873, shall be and the same is hereby amended by substituting twenty-eight, instead of twenty, as the total number of members of the Legislative Council of Natal, and by substituting thirteen, instead of five, as the number of non-elective members of the Legislative Council of Natal, and the Lieutenant-Governor shall be and he is hereby empowered from time to time to nominate and appoint accordingly a further number of persons not exceeding eight to be members of the said Legislative Council: Provided that such further number of persons, not exceeding eight, to be nominated and appointed as non-elective members of the said Legislative Council, shall be selected from persons who have been on the Voters' Roll for two years, and are possessed of immovable property of the value of One Thousand Pounds sterling, free of all encumbrances, and shall be subject in all respects to the 18th and 19th Clauses of the Royal Charter of 1856, as if they were elective members: Provided further, that such requisite qualifications shall not apply to the five nominated members holding offices of profit under the Crown: Provided also, that the seats of the non-elective members in the said Council shall terminate by death or resignation, or by dis-

solution of the Legislative Council in the same manner as seats of elective members thereof: And provided also that upon the dissolution of the now existing Legislative Council, the Lieutenant-Governor shall be and he is hereby empowered to nominate and appoint persons to fill the entire thirteen non-elective seats in the Legislative Council, any former Law or Charter or nomination or appointment notwithstanding.

2. That all laws imposing taxation on the European population shall require not less than two-thirds of the members present to carry the affirmative.

3. That the Legislative Council shall not be competent to proceed to the despatch of any business unless ten members be present.

4. That this Law shall be in force for a period of five years from and after the promulgation thereof in the *Government Gazette.*

5. That four members be nominated from the Borough of Durban, the Counties of Durban, Victoria, Alexandra, and Alfred; and four from the Borough of Pietermaritzburg, and the Counties of Pietermaritzburg, Umvoti, Weenen, and Klip River.

6. Save so far as in conflict with this Law, all former Laws and Charters now in existence shall be deemed to be in force notwithstanding the passing thereof.

7. This Law shall commence and take effect from and after the date of promulgation in the *Natal Government Gazette* of Her Majesty's assent thereto, and may be cited for all purposes as the "Natal Constitution Amendment Law, 1875."

P.R.O., C.O. 180/4.

NATAL GOVERNMENT RAILWAYS.

No. 4, 1875.

No. 118. *Law.*—To empower the Lieutenant-Governor to make, maintain, equip, and work certain Railways in the Colony of Natal, and to confirm a provisional Contract entered into for the construction of the same.

P.R.O., C.O. 180/4.

No. 5, 1875.

No. 119. *Law.*—To raise a Loan for the Construction and Equipment of certain Railways in the Colony of Natal.

P.R.O., C.O. 180/4.

No. 6, 1875.

No. 120. *Law.*—To provide for the taking over by the Colonial Government of the Lines of Railway between the Point and the Town of Durban, and between the Town of Durban and the River Umgeni.

P.R.O., C.O. 180/4.

No. 3, 1877.

No. 121. *Law.*—To provide for the Management and Working of the Natal Government Railways.

P.R.O., C.O. 180/5.

No. 2, 1878.

No. 122. *Law.*—For fixing the Fares and Rates chargeable for the conveyance of passengers and goods by the Natal Government Railways.

P.R.O., C.O. 180/5.

CONSTITUTION AMENDMENT LAW, 1883.

[9 March 1883.]

No. 1, 1883.

No. 123. *Law.*—To Amend the Constitution of Natal.

[First part of the Preamble is identical with that of Law No. 1 of 1873.]

And Whereas by Law No. 1, 1873, Section 1, it is provided and enacted that the Legislative Council of Natal shall consist of twenty members, of whom fifteen shall be elective and five non-elective:

And Whereas it is expedient to increase the number of members of the Legislative Council; and for such purposes to amend the said Charter and the said recited Law:

Be It Therefore Enacted by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. [Short title: "Constitution Amendment Law of 1882."]

2. [Former laws and charters to remain in force, save so far as in conflict herewith.]

3. The Law No. 1, 1873, shall be and the same is hereby amended by substituting thirty instead of twenty as the total number of members of the Legislative Council of Natal, of whom twenty-three shall be elective and seven shall be non-elective.

4. Clause 2 of Law 1 of 1873 (except in so far as it repeals Clause 10 of the said Charter) is hereby repealed.

5. The twenty-three elective members shall be chosen by the electors of the following ten electoral districts:

ELECTORAL DISTRICTS.

	Number of Members.
1. County of Klip River (exclusive of the Division of New Castle)	2
2. Division of New Castle	2
3. County of Weenen	2
4. County of Umvoti	2
5. County of Pietermaritzburg	3
6. County of Durban	2
7. Counties of Alexandra and Alfred	1
8. County of Victoria	3
9. Borough of Pietermaritzburg	3
10. Borough of Durban	3
Total	23

6. [Additional elective members, how to be elected.]

7. So soon as the additional elective members to serve in the present Council shall have been returned, the Governor shall be and he is hereby empowered to nominate and appoint two non-elective members, in addition to those who are already members of the Council, to have seats therein. The two additional members shall hold their office during the Royal pleasure; they shall not be members of the Public Service of the Colony; they shall have been on the voters' roll for at least two years immediately prior to their appointment; and they shall possess immovable property, situate within the Colony of Natal, of the value of £1000, after deducting all mortgages and encumbrances; and such two members shall be subject to the provisions of the 18th and 19th Clauses of the Charter.

8. [Ten members to be a quorum.]

9. Clause 42 of the Charter shall be and is hereby amended by substituting the word "more" for the word "two."

10. [Electors to vote in their own wards.]

11. [Governor may appoint any number of polling-places in any one ward.]

12. [When there are no more candidates than the number of persons to be elected, they shall be declared duly elected without recourse to a poll.]

13. [To take effect from the date of promulgation of Her Majesty's assent.] *P.R.O., C.O.* 180/6.

FRANCHISE AMENDMENT LAW, 1883. [29 March 1883.]

No. 2, 1883.

No. 124. *Law.*—To amend the Franchise.

[Preamble.]

1. [Short title: "Franchise Amendment Law of 1882."]

2. [Save so far as in conflict, former Laws and Charters remain in force.]

3. Every male inhabitant, of three years' residence in the Colony of Natal, whose income, inclusive of allowances, is equal to £8 per month, or £96 per annum, who may be disqualified as an elector under the Charter of Natal on the sole ground of his not possessing the property or rental qualification required by the eleventh clause of said Charter, may cause himself to be enrolled by the Field-Cornet of his Borough or Ward on the list of men qualified to vote for members of the Legislative Council.

4. [Electors qualified under the Law, to claim franchise before field-cornets.]

5. [Field-cornets to make up voters' lists.]

6. No person belonging to a class which is placed by special legislation under the jurisdiction of special courts, or is subject to special laws and tribunals, shall be entitled to be placed on the Voters' List, or to vote at the election of any member of the Legislative Council: Provided that any such person may be exempted from the operation of this clause by letters of exemption granted to such person by the Governor of the Colony: Provided, further, however, that no such letters of exemption shall be granted except upon an application, both written in English or Dutch and signed in European characters by the applicant in the presence of a Resident Magistrate, a Justice of the Peace, or other person appointed for this purpose by the Governor, showing to the satisfaction of the Governor that the applicant is a British subject, or a naturalised alien, that he has resided in the Colony for three years and in the same Borough or Ward for six months out of the seven months preceding the date of application, and that he has not been convicted of any treason, felony, or infamous offence, or that, if convicted, he has received a free pardon: Provided that such applicant shall have the qualification required by the Charter of Natal, or by the 3rd Section of this Law, and shall, if a Native, have been exempted from the operation of Native Law. If any person shall in such application make any wilfully false statement, such person shall forfeit One Hundred Pounds, and be for ever disqualified as an elector of Natal.

7. [This Law to be construed with the Charter of Natal.]

8. [To take effect from the date of promulgation of Her Majesty's assent.]

[Schedule.] *P.R.O., C.O.* 180/6.

CONSTITUTION AMENDMENT LAW, 1889.

[25 June 1889.]

No. 5, 1889.

No. 125. *Law.*—To amend Law No. 1 of 1883, being the Constitution Amendment Law, 1882.

WHEREAS it is desirable to make provision for separate representation by Elective Members in the Legislative Council of the Counties of Alexandra and Alfred, and in consequence to increase the number of Elective Members:

Be it therefore enacted . . . as follows:

1. [Save so far as in conflict, former laws and charters remain in force.]

2. [Electoral District of Alexandra and Alfred shall cease to return a member.]

3. [Counties of Alexandra and Alfred to have separate representation.]

4. [Boundaries of Alexandra and Alfred Counties.]

5. [Alexandra County to return one member.]

6. [Alfred County to return one member.]

7–8. [Present Voters' Lists for respective counties to remain in force till 1 Sept. 1889.]

9. [Previous laws and charters relating to election purposes to apply.]

10. [After Her Majesty's allowance shall be obtained, the Governor shall notify a date for this law to take effect.]

P.R.O., C.O. 180/8.

RESPONSIBLE GOVERNMENT. [3 July 1893.]

No. 14, 1893.

No. 126. *Law.*—Enacted by the GOVERNOR OF NATAL, with the advice and consent of the LEGISLATIVE COUNCIL thereof, to provide for the Establishment of Responsible Government in Natal.

WHEREAS it is expedient to provide for the establishment of Responsible Government in Natal:

Be it therefore enacted by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. This Act may be cited as the "Constitution Act of 1893."

2. This Act shall commence and take effect at such date as may be fixed by a Proclamation signed by the Governor of Natal declaring that the Royal assent has been given thereto.

3. There shall be in place of the Legislative Council now subsisting, a Legislative Council and a Legislative Assembly as hereby constituted.

[Present Council to act until first writs for election of Assembly are issued.]

4. [Existing Charters and Laws, as far as not repugnant to this Law, to continue in force.[1]]

5. It shall be lawful for Her Majesty and Her Successors, by and with the advice and consent of the Legislative Council and Legislative Assembly, as hereby constituted, to make all Laws required for the peace, order and good government of the Colony of Natal.

6. [Governor may assent, or refuse assent to Bills, or reserve them.]

7. If at any time within two years after the Governor has assented to any Bill in Her Majesty's name, it shall be notified to him through one of Her Majesty's Principal Secretaries of State that Her Majesty in Council has been pleased to disallow the Act so assented to, the Governor shall forthwith signify such disallowance by Message to the Legislative Council and Legislative Assembly, or by Proclamation in the *Government Gazette*, and from and after the date of such Message or Proclamation, the said Act shall become null and void.

8. Within three months after the commencement of this Act, and thereafter from time to time as may be necessary, the Governor may designate such offices as he thinks fit, not being more than six in number, to be political offices for the purposes of this Act. Appointments to such offices shall be made by the Governor, in the name of Her Majesty, and such offices shall be held at Her Majesty's pleasure, and be liable to be vacated on political grounds.

The holders of such offices are in this Act styled Ministers, and a Minister shall not vacate his seat in the Legislative Council or Legislative Assembly by reason of his appointment to or retention of any such office.

9. Every Minister shall be, or shall within four months from the date of his appointment become, a Member of the Legislative Council or of the Legislative Assembly, but not more than two Ministers may be Members of the Legislative Council.

10. Each Minister being a Member of either House shall

[1] Act No. 1 of 1893 provided that the non-conflicting provisions of the Natal Charter of 1856 as amended by subsequent laws were to be construed with Law No. 14 of 1893.

have a right to sit and speak in both Houses, but shall vote only in the House of which he is a Member.

11. The words "Governor in Council" in this Act, or any other Act or Law appearing, shall mean the Governor acting with the advice of the Executive Council.

12. [Session of both Houses at least once a year.]

13. [Governor to fix place and time of sessions. He may prorogue both Houses from time to time and may dissolve the Assembly when he thinks fit.]

14. The Legislative Council shall consist of eleven Members, who shall be summoned in the case of the first Council by the Governor, and thereafter from time to time by the Governor in Council in the name of Her Majesty by instruments under the Public Seal of the Colony.

15. No person shall be so summoned unless he shall be of the age of 30 years or upwards, nor unless he shall have resided in the Colony for 10 years, nor unless he shall be the registered proprietor of immovable property within the Colony of the value of Five Hundred Pounds in nett value after deduction of the amount of all registered mortgages.

16. [Members of Council to sit for 10 years: but five members of the first Council, to be decided on by lot, shall retire after the first 5 years.]

17. [Members vacating their seats by lapse of time may again be summoned.]

18. [Members of the Council may vacate their seats by resignation.]

19. Members of the Legislative Council shall be summoned from the following Districts, that is to say: Five from within the Counties of Durban, Victoria, Alexandra, and Alfred; three from within the Counties of Pietermaritzburg and Umvoti, and three from within the Counties of Weenen and Klip River: Provided that not more than two Members shall be chosen from within any one County.

20. [The Governor may appoint one Member to be President of the Council and may remove the President.]

21. [Quorum of the Council to be five.]

22. The Legislative Assembly shall consist of thirty-seven Members, who shall be chosen by the Electors of the following Electoral Districts:

Pietermaritzburg City	4
Pietermaritzburg County—	
Umgeni Division	2
Lion's River Division	2
Ixopo Division	2
Durban Borough	4
Durban County	3

Victoria County	4
Umvoti County	3
Weenen County	3
Klip River County—	
Klip River Division	3
Newcastle Division	3
Alexandra County	2
Alfred County	2

23. [Governor to issue writs for the election of Members of the Assembly,—such members to possess the same qualifications as Members of the present Council.]

24. [Application of existing Laws for purposes of Election.]

25. Every Legislative Assembly shall continue for four years from the day of the return of the writs for the election of the same, and no longer: Subject, nevertheless, to be sooner prorogued or dissolved by the Governor.

26. [Governor may transmit Bills to the Legislature.]

27. [Members' oath of allegiance.]

28. [Legislative Assembly to elect a Speaker.]

29. [Speaker to preside.]

30. [Quorum of Assembly to be twelve.]

31. [All questions to be decided by majority of votes.]

32. [Acts of a Member which may cause him to forfeit his seat.]

33. [Contract with Government causes a member to retire.]

34. [Vacancies to be filled forthwith.]

35. [Member of Assembly may resign his seat.]

36. [Writs for filling vacancies in Assembly to be issued by the Speaker.]

37. [Writs during recess.]

38. [Members declared disqualified shall not sit, on penalty of forfeiting £100.]

39. [Each house to adopt rules and orders for itself.]

40. [Salaries of officers of the Legislature.]

41. The Law No. 1 of 1870[1] shall henceforth be construed as if the word "Assembly" appears therein whenever the word "Council" is used, except in the enacting clause. [Documents to be laid before the Houses.]

42. [Privileges of Members not to exceed those of Members of the House of Commons.]

43. The commissions of the present Judges of the Supreme Court, and Native High Court, and of all future Judges thereof shall be, continue and remain in full force during their good behaviour.

44. It shall be lawful, nevertheless, for Her Majesty to remove any such Judge, upon the Address of both Houses of the Legislature of the Colony.

[1] Entitled, "For the support of the office of Speaker . . ."

45. [Salaries of Judges.]

46. All taxes, imports, rates, and duties, and all territorial, casual, and other revenues of the Crown (including royalties) from whatever source arising within the Colony, over which the Legislature has power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the Public Service of the Colony in the manner and subject to the charges hereinafter mentioned.

47. The Consolidated Revenue Fund shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof; such cost, charges, and expenses being subject nevertheless to be reviewed and audited in such manner as may from time to time be directed by any Act of the Legislature.

48. All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly.

49. The Legislative Council may either accept or reject any money Bills passed by the Legislative Assembly, but may not alter it.

50. It shall not be lawful for the Legislative Assembly to adopt or pass any vote, resolution, or Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty or impost to any purpose which has not been first recommended to the said Assembly by Message of the Governor during the Session in which such vote, resolution, or Bill is proposed.

51. No part of the Consolidated Revenue Fund shall be issued except in pursuance of warrants under the hand of the Governor directed to the Treasurer.

52. There shall be payable to Her Majesty, in every year, out of the Consolidated Revenue Fund, sums not exceeding in the whole £21,700 sterling (Twenty-one Thousand Seven Hundred Pounds), for defraying the expenses of the services and purposes set forth in Schedules[1] A and B to this Act, and the said several sums shall be issued by the Treasurer in discharge of such warrants as shall from time to time be directed to him under the hand of the Governor.

53. [Appointment to public offices to be by Governor in Council.]

54. [Removal of Civil Servants to be by Governor in Council.]

55. [Pensions to be granted to present official Members of Council if they retire on political grounds. But such members accepting any other appointment under the Crown shall forfeit such pension in whole or in part.] *P.R.O., C.O.* 180/9.

[1] Schedules not printed in this volume.

OFFICE OF GOVERNOR CONSTITUTED. [20 July 1893.]

No. 127. *Letters Patent* passed under the Great Seal of the United Kingdom.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India: To all to whom these Presents shall come, Greeting:

WHEREAS by Our Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland bearing date the Fifteenth day of July 1856, We did erect the District of Natal into a separate Colony to be called the Colony of Natal:

And Whereas by the said Letters Patent and by certain other several Letters Patent under the said Great Seal bearing date respectively the Twenty-second day of December 1869, the Twenty-second day of May 1872, and the Twenty-seventh day of October 1890, We did make provision for the Government of Our said Colony:

And Whereas an alteration in the Constitution of Our said Colony has been effected by a law of the Colony styled the "Constitution Act of 1893":

Now We do by these presents revoke Our said recited Letters Patent, but without prejudice to anything lawfully done thereunder, reserving nevertheless to Ourselves, Our heirs and successors, full power to disallow any Law passed by the Legislature of Our said Colony, and to signify such disallowance through one of Our Principal Secretaries of State at any time within two years after an authentic copy of such laws shall have been received by Us or by one of Our Principal Secretaries of State. And We do further hereby declare Our will and pleasure as follows:

II. There shall be a Governor and Commander-in-Chief in and over Our Colony of Natal (hereinafter called the Colony), and appointments to the said office shall be made by Commission under Our Sign Manual and Signet.

III. We do hereby authorise, empower, and command Our said Governor and Commander-in-Chief (hereinafter called the Governor) to do and execute all things that belong to his said office, and to exercise the powers and authorities vested in him by the said Constitution Act of 1893, or by any other Act adding to, amending, or substituted for the same, and by these Our Letters Patent, or by any other Our Letters Patent adding to, amending, or substituted for the same, and by such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and

Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such Laws as are now or shall hereafter be in force in the Colony.

IV. Every person appointed to fill the office of Governor shall, with all due solemnity, before entering on any of the duties of his office, cause the Commission appointing him to be Governor to be read and published at the seat of Government, in the presence of the Chief Justice or some other Judge of the Supreme Court of the Colony and of the Members of the Executive Council thereof; which being done, he shall then and there take before them the Oath of Allegiance in the form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second years of Our Reign, intituled "An Act to amend the Law relating to Promissory Oaths"; and likewise the usual Oath for the due execution of the office of Governor, and for the due and impartial administration of justice; which Oaths the said Chief Justice or Judge is hereby required to administer.

V. The Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the Public Seal.

VI. There shall be an Executive Council for the Colony, and the said Council shall consist of such persons as may at any time be Members thereof in accordance with any Law of the Colony, and of such other persons as the Governor shall, from time to time, in Our name and on Our behalf, but subject to any Law, as aforesaid, appoint under the Public Seal of the Colony to be Members of Our said Executive Council.

VII. The Governor, in Our name and on Our behalf, may make and execute under the said Public Seal, grants and dispositions of lands within the Colony, subject to the Laws in force for the time being for regulating the sale or disposal of Crown lands.

VIII. The Governor may constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers in the Colony, as may be lawfully constituted or appointed by Us.

IX. When any crime has been committed within the Colony, or for which the offender may be tried therein, the Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted in any Court, or before any Judge or other Magistrate within the Colony, a pardon either free or subject to lawful conditions, or any

remission of the sentence passed on such offender, or any respite of the execution of such sentence for such period as the Governor thinks fit, and further may remit any fines, penalties, or forfeitures due or accrued to Us. Provided always that the Governor shall in no case, except where the offence has been of a political nature, unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall absent himself or be removed from the Colony.

X. The Governor may, so far as We Ourselves lawfully may, upon sufficient cause to him appearing, remove from his office, or suspend from the exercise of the same, any person holding any office or place within the Colony under or by virtue of any Commission or Warrant or other instrument granted, or which may be granted by Us or in Our name or under Our authority.

XI. The Governor may exercise all powers lawfully belonging to Us in respect of the summoning, proroguing, or dissolving any Legislative Body, which now is or hereafter may be established within the Colony, and in respect of the appointment of members thereto.

XII. [If the office of Governor becomes vacant the duties shall be carried out by a Lieutenant-Governor or other officer appointed by the Crown.]

XIII. [If the Governor is absent from the Colony for any period not exceeding one month, he shall none the less continue to fill the office of Governor.]

XIV. [During such temporary absence the Governor may appoint a Deputy to act for him.]

XV. [All officers, ministers, and other inhabitants shall be aiding and assisting the Governor.]

XVI. [The term "Governor" shall include every person for the time being administering the government of the Colony.]

XVII. [Power is reserved to revoke, alter, and amend these Letters Patent.]

XVIII. And We do direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within the Colony as the Governor shall think fit.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster, the Twentieth day of July, in the Fifty-seventh year of Our Reign.

By Warrant under the Queen's Sign Manual.

MUIR MACKENZIE.

Statutes of Natal, "Parliament," p. 33.

GOVERNOR'S INSTRUCTIONS.

No. 128. To Our Governor and Commander-in-Chief in and over Our Colony of Natal, or to Our Lieutenant-Governor or other Officer for the time being administering the Government of Our said Colony.

Given at Our Court at St. James's, this Twentieth day of July 1893, in the Fifty-seventh year of Our Reign.

WHEREAS by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Natal (therein and hereinafter called the Colony) :

And Whereas We have thereby authorised, empowered, and commanded the Governor to do and execute all things that belong to his said office, and to exercise the powers and authorities vested in him by a Law of the Colony styled the "Constitution Act, 1893," or by any other Act adding to, amending, or substituted for the same, and by Our said Letters Patent, or by any other Our Letters Patent adding to, amending, or substituted for the same, and by such commission as may be issued to him under Our Sign Manual and Signet, and according to such instructions as may from time to time be given to him under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such Laws as are now or shall hereafter be in force in the Colony :

And Whereas We did issue certain Instructions under Our Sign Manual and Signet, bearing date the Sixteenth day of February 1882, and certain Additional Instructions bearing date respectively the Sixth day of June 1885 and the Sixth day of December 1889 ; Now know you that We do hereby revoke the aforesaid Instructions and Additional Instructions and We do by these Our Instructions under Our Sign Manual and Signet direct and enjoin and declare Our Will and Pleasure as follows :

I. In these Our Instructions, unless inconsistent with the context, the term " Governor " shall include every person for the time being administering the Government of the Colony.

II. The Governor may, whenever he thinks fit, require any person in the public service to take the Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Law in force in the Colony. The Governor is to administer such Oaths or cause them to be administered by some Public Officer of the Colony.

III. The Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such

others, from time to time, as he shall find convenient for Our service to impart to them.

IV. The Executive Council shall not proceed to the despatch of business unless duly summoned by authority of the Governor, nor unless two Members at least (exclusive of himself or of the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

V. The Governor shall attend and preside at the meetings of the Executive Council, unless prevented by some necessary or reasonable cause, and in his absence such Member as may be appointed by him in that behalf, or in the absence of such Member the senior Member of the Executive Council actually present shall preside; the seniority of the Members of the said Council being regulated according to the order of their respective appointments as Members thereof.

VI. Before exercising the powers of Supreme Chief, other than those by Law vested in the Governor in Council, the Governor shall acquaint his Ministers with the action which he proposes to take, and so far as may be possible shall arrange with them as to the course of action to be taken. The ultimate decision must, however, in every case rest with the Governor.

VII. In the execution of all other powers and authorities vested in him the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to Us without delay, with the reasons for his so acting.

In any such case it shall be competent to any Member of the said Council to require that there be recorded upon the Minutes of the Council the grounds of any advice or opinion that he may give upon the question.

VIII. The Governor shall not, except in the cases hereunder mentioned, assent in Our name to any Bill of any of the following classes:

1. Any Bill for the divorce of persons joined together in holy matrimony.

2. Any Bill whereby any grant of land or money, or other donation or gratuity, may be made to himself.

3. Any Bill affecting the currency of the Colony.

4. Any Bill imposing differential duties.

5. Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty.

6. Any Bill interfering with the discipline or control of Our forces in the Colony by land or sea.

7. Any Bill of an extraordinary nature and importance,

whereby Our prerogative, or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies may be prejudiced.

8. Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable.

9. Any Bill containing provisions to which Our assent has been once refused, or which have been disallowed by Us;

Unless he shall have previously obtained Our Instructions upon such Bill through one of Our Principal Secretaries of State, or unless such Bill shall contain a clause suspending the operation of such Bill until the signification in the Colony of Our pleasure thereupon, or unless the Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorised to assent in Our name to such Bill, unless the same shall be repugnant to the law of England, or inconsistent with any obligations imposed upon Us by Treaty. But he is to transmit to Us by the earliest opportunity the Bill so assented to, together with his reasons for assenting thereto.

IX. Whenever any offender shall have been condemned to suffer death by the sentence of any Court, the Governor shall consult the Executive Council upon the case of such offender, submitting to the Council any report that may have been made by the Judge who tried the case; and, whenever it appears advisable to do so, taking measures to invite the attendance of such Judge at the Council. The Governor shall not pardon or reprieve any such offender unless it shall appear to him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering nevertheless on the Minutes of the Executive Council, a Minute of his reasons at length in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

X. All commissions granted by the Governor to any persons to be Judges, Justices of the Peace, or other officers shall, unless otherwise provided by Law, be granted during pleasure only.

XI. The Governor, except in the execution of any Letters Patent or of any Commission under Our Sign Manual and Signet, shall not upon any pretence whatever quit the Colony without having first obtained leave from Us for so doing under

Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, unless for the purpose of visiting the Governor of Our Colony of the Cape of Good Hope, or of visiting some neighbouring State for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the Colony.

Statutes of Natal, " Parliament," p. 36.

FRANCHISE AMENDMENT ACT, 1896. [23 May 1896.]

No. 8, 1896.

No. 129. *Act.*—To amend the Law relating to the Franchise.

WHEREAS it is expedient to amend the Law relating to the Franchise :

Be It Therefore Enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :

1. Act No. 25, 1894, shall be and the same is hereby repealed.

2. Save those who come under the operation of Section 3 of this Act, no persons shall be qualified to have their names inserted in any List of Electors, or in any Voters' Roll, or to vote as Electors within the meaning of Section 22 of the Constitution Act of 1893, or of any Law relating to the election of members of the Legislative Assembly, who (not being of European origin) are Natives or descendants in the male line of Natives of countries which have not hitherto possessed elective representative institutions founded on the Parliamentary Franchise, unless they shall first obtain an order from the Governor in Council exempting them from the operation of this Act.

3. The provisions of Section 2 of this Act shall not apply to persons of the class mentioned in that section whose names are rightly contained in any Voters' Roll in force at the date of the promulgation of this Act, and who are otherwise competent and qualified as electors.

Statutes of Natal, " Parliament," p. 43.

No. 130. ANNEXATION OF ZULULAND. [29 Dec. 1897.]

[Cetewayo, King of the Zulus, who succeeded Panda in 1872, kept a powerful army which was regarded as threatening to the safety of Natal. The Governor's demands for redress for certain acts of provocation were not complied with, and war broke out in 1879. Soon the greater part of Zululand became British territory, and by an arrangement made in 1887 it was administered by the Governor of Natal with

the assistance of six magistrates in various districts supported by strong bodies of police. This statute provided for its incorporation with the Colony.]

ACT No. 37, 1897.

"To provide for the Annexation to the Colony of Natal of the Territory of Zululand."

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:

1. This Act may be known as "The Zululand Annexation Act, 1897."

2. This Act shall not take effect unless and until the Governor shall notify by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation.

3. From and after the taking effect of this Act, the Territory of Zululand shall become annexed to and shall thenceforth be a portion of the Colony of Natal, and shall be known as the Province of Zululand.

4. Laws for the peace, order, and good government of the Province of Zululand may be made by Her Majesty with the advice and consent of the Parliament of Natal, as provided in the Constitution Act of 1893 of the Colony of Natal: Provided that save so far as is otherwise provided by this Act, and until other and further provision shall have been made by Parliament, the laws in force in the Territory of Zululand immediately before the taking effect of this Act shall apply to and be in force in the Province of Zululand.

5. All persons living in Zululand who, if in the Colony of Natal, would enjoy franchise rights, are hereby declared to be entitled thereto, but the exercise of such rights shall be postponed until the necessary provision shall have been made in that behalf by Parliament: Provided that a Bill for such purpose shall be submitted by the Governor to Parliament at its next ordinary Session.

6. The Governor in Council shall have full power and authority by Proclamation to apply to the Province of Zululand any of the laws of Natal relative to:

Police,
Gaols,
Customs and Excise,
Audit,
The Post and Telegraph Service,
The Registry of Deeds,

and to repeal any existing law of Zululand relative thereto.

7. The Governor in Council may from time to time, until

the 30th June 1898, by Proclamation, make any alteration in or addition to the Laws of Zululand, not being inconsistent with the tenor of this Act.

8. [The Governor in Council may reconstitute the public departments of Zululand. Pensions and rights of officers of Zululand Government secured.]

9. [How public officers may be referred to.]

10. The powers and authority of the Crown Prosecutor of Zululand shall be exercised subject to the authority of the Attorney-General of Natal.

11. The Supreme Court of Natal shall not exercise jurisdiction within the Province of Zululand, or over the Courts thereof, otherwise than in accordance with any Act or Acts that may hereafter be passed.[1]

12. [Compensation for loss of office in Zululand.]

13. All obligations, undertakings, and liabilities of the Government of Zululand subsisting at the date when this Act shall come into force, shall thenceforth be transferred to, become binding upon, and be discharged by, the Government of Natal.

14. [Engagements with Native Chiefs to be observed.]

15. [Restrictions on the sale of intoxicating liquors.]

16. [Salaries of officials in Zululand and other expenses to be paid out of the Consolidated Revenue Fund of Natal.]

17. [Income and revenue to be payable to Natal Government.]

18. [Restrictions on alienation of Crown Lands.]

19. [Rights of certain persons practising in Natal secured.]

20. [No charge to be made for passes of natives moving from Zululand to Natal, and *vice versa*.]

21. [Lands set apart for missionary, religious, or educational purposes.]

22. [Governor's salary raised from £4000 to £5000.]

23. [Pension to Sir Marshall Clarke in respect of services in Zululand.] *Statutes of Natal*, "Zululand," p. 2.

No. 131. *Act.*—To amend the Law relating to the Franchise.

[12 July 1906.]

No. 14, 1906.

[By Act No. 1, 1903, certain territories forming part of the Transvaal were annexed to Natal, viz.: The District of Vrijheid, the District of Utrecht, and a portion of the District of Wakkerstroom. These were called the "Northern Districts" of Natal.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:

[1] Act No. 46 of 1898 extended the Supreme Court's jurisdiction to Zululand.

1. Any person who at the date of the annexation of the territories known as the Northern Districts of Natal, was enrolled upon the latest list of burghers of the late South African Republic, and entitled to vote for members of the First Volksraad thereof, and who continues to reside in any part of the Northern Districts, and who would otherwise be disqualified as an elector under the Charter of Natal on the sole ground of his not possessing the qualifications required by the 11th clause of the said Charter or by any Law or Act amending the same, shall be entitled to be registered as a voter in the electoral district of the Northern Territories in which he resides at the time when the Voters Roll for such District shall be prepared, nothwithstanding that such person may not possess the qualifications necessary to entitle him to be registered as a voter in terms of the law.

If any such person shall hereafter become registered as a voter in virtue of the 11th clause of the said Charter, or of any amendments thereof, the special franchise conferred upon him by this Act shall cease.

2. This Act shall be construed together with the Royal Letters Patent of 15th July 1856, known as the Charter of Natal.

Acts of the Parl. of the Colony of Natal (1906), p. 50.

SECTION B.

LOCAL GOVERNMENT.

CREATION OF MUNICIPAL BOARDS. [30 March 1847.]

No. 5, 1847.

No. 132. *Ordinance.*—Enacted by His Excellency the Right Hon'ble the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL, for the creation of Municipal Boards in the Towns and Villages of the District of Natal.[1]

1–9. [Meetings of householders may be held to elect a Committee which shall draw up municipal regulations for any locality.]

10. [How to proceed in regard to regulations approved of by such meeting.]

11. [How to proceed in case the Lieutenant-Governor of

[1] This Ordinance may be compared with the Municipal Ordinance passed for the Cape Colony in 1836 (p. 78). Both instruments were enacted by the same body, hence their close similarity. Cf. No. 163.

Natal shall disallow any regulations or in case householders shall not adopt regulations amended by such Lieutenant-Governor.]

12. [Mode in which regulations may be amended.]

13. [Meeting to choose Commissioners of a municipality, how to be called.]

14. And be it enacted, that any person being the proprietor of landed property situated within the municipality, of the value of not less than £200, shall be eligible to be elected a commissioner for the purposes of this ordinance.

15. [Commissioners, how to be put in nomination.]

16. [They hold office for three years, but may be re-elected.]

17–19. [Subsequent elections.]

20. [Meetings of Commissioners, when to be held.]

21. [Special meetings.]

22–25. [Appointment of treasurer and other officers.]

26. [Commissioners to have no salary or reward.]

27. [Commissioners, how to sue and be sued.]

28. [Proceedings of Commissioners to be entered in a book.]

29. [Books of accounts to be kept.]

30. [Accounts to be made up till 31st December in every year and to be open for public inspection.]

31. [Commissioners to call meetings for assessing rates.]

32–34. [Rates, how to be collected.]

35. [Commissioners to appoint watchmen, etc.]

36. [Watchmen, etc. to be vested with all powers and privileges of constables.]

37–44. [Commissioners to provide fire-engines, lamp-posts, water-pipes; erect bridges; repair streets; establish markets; regulate pasture-lands; assize weights and measures; etc.]

45. [Penalty for wilfully injuring municipal property.]

46. [Commissioners to abate nuisances.]

47. [They may enter into contracts.]

48. [They may purchase and hire property.]

49. [Property vested in the municipality.]

50. [Property vested in Commissioners.]

51. [Offences against this Ordinance to be prosecuted in a resident magistrate's court.]

52. And be it enacted, that every person who is the occupier of any house, warehouse, counting-house, shop, or office, either as proprietor or renter, of the yearly value or rent of not less than five pounds sterling, shall be, and be deemed and taken to be, a resident householder within the meaning of this ordinance, and that at the several meetings of such resident householders as aforesaid. hereinbefore appointed and author-

ised to be holden, every such resident householder who shall be personally present, shall have and be entitled to one vote and no more; provided always, that no female shall be deemed to be a resident householder within the meaning of this Ordinance, or be competent to vote at any meeting, or to be elected to any office, and if any question shall arise at any meeting as to the qualification of any individual to be deemed such resident householder as aforesaid, the chairman of such meeting shall inquire into, and summarily determine the same, and his decision shall, for the purpose of such meeting, but no further, be final and conclusive.

53. [Joint occupiers entitled to be considered resident householders.]

54. [Chairman at a meeting of householders to be elected by them.]

55. [Ordinance not to impair private rights.]

56. [Expenses of this Ordinance to be paid out of money raised by Commissioners under its provisions.]

57. [Interpretation Clause.]

58. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be appointed for the commencement thereof, by any Proclamation to be by the Lieutenant-Governor aforesaid for that purpose issued, and posted upon, or affixed to, some public place in Pietermaritzburg.

GOD SAVE THE QUEEN.

P.R.O., C.O. 50/2.

MUNICIPAL CORPORATIONS. [21 April 1854.]

No. 1, 1854.

No. 133. *Ordinance.*—For establishing Municipal Corporations within the District of Natal.

WHEREAS an Ordinance, No. 5, 1847, was passed by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, entituled "An Ordinance for the creation of Municipal Boards in the Towns and Villages of the District of Natal": And whereas great doubts have arisen as to the legal validity of the said Ordinance, and whereas it is necessary to remove such doubts, and at the same time to provide for the better regulation of the Towns and Villages of the District.

Be It Therefore Enacted by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows;

I. Repeal of Former Laws.

1. The said Ordinance No. 5, 1847, shall be, and the same is hereby repealed, provided that all acts and deeds lawfully done under and by virtue of the said Ordinance shall be, and the same are hereby confirmed.

II. Creation and Constitution of Municipal Corporations.

2. Every Township within the District, having a population of 1000 souls, shall be a Borough within the meaning of this Ordinance, and shall be governed by a Council to be elected in manner hereinafter mentioned.

3. In every Borough there shall be a body corporate, which shall take and bear the name of Mayor, Councillors, and Burgesses of such Borough, and by that name shall have perpetual succession, and shall have a common Seal, and shall by the Council thereof do all acts, and have and enjoy all the rights and privileges which bodies corporate as such may do and have, according to the law of the Kingdom of England.

4. The Council shall consist of a Mayor and seven Councillors.

5. Whenever the population of any township shall amount to 1000 souls as aforesaid, the Lieutenant-Governor shall by proclamation declare the same to be a Borough within the meaning of this Ordinance, and define the boundaries thereof, and shall, immediately after the first election of the Council of the said Borough, by grant under his hand and the Public Seal, grant and convey, to the body corporate thereof, such lands, situate within and near the town, as to him shall seem just and proper.

III. Division of Boroughs into Wards.

6. Every Borough shall be divided into four wards.

7. Before the first election of a Mayor or Councillors for any Borough, under this Ordinance, the Lieutenant-Governor shall, by Proclamation, divide the said Borough into wards, and declare the names and boundaries thereof.

8. After the first election as aforesaid, the Council shall from time to time, if they shall think fit, alter the names and boundaries of such wards.

9. Two Councillors shall be elected for each ward, in manner hereinafter mentioned.

10. Provided that the Lieutenant-Governor may, if the increase of population of any Borough shall render such arrangement necessary, by Proclamation declare that the number of wards of such Borough shall be six instead of four, and the

Council shall consist of a Mayor and eleven Councillors, instead of a Mayor and seven Councillors, but so that two Councillors shall still be elected for each ward.

IV. Qualification of Electors.

11. Every male inhabitant of a Borough, except as hereinafter excepted, of the age of 21 years, being duly enrolled in manner hereinafter mentioned, who possesses any immoveable property of the value of £25, or who shall have rented for a continuous period of six months prior to the first day of June, in this and every year, any such property of the yearly value of £5 within any ward, shall be qualified to vote at the election of Councillors for such ward.

12. [Joint occupiers of property entitled to vote.]

13. The following persons shall not be qualified to vote at any such elections:

1. Aliens who have not been naturalized by Act of the Imperial Parliament, or by deed of Burgher-ship.
2. [Persons convicted of an infamous crime.]

V. Mode of Enrolment.

14. [Resident magistrate to make out a Burgess Roll of men entitled to vote in each ward of a Borough.]

15. [Burgess Roll to be made annually.]

16. [Publication of Burgess Roll and objections to the same.]

17. [Correction of the Roll by a resident magistrate.]

18. [Roll to be used for one year.]

19. [Copy of Roll procurable.]

VI. Qualification of Councillors.

20. No person shall be qualified to be elected a councillor for any Borough who is not enrolled, or entitled to be enrolled, as Burgess of the Borough under this Ordinance, and who is not possessed in his own right, or right of his wife, of immoveable property within the Borough, of the value of £100, over and above all mortgages affecting the same.

21. [Candidates to be invited by requisition of voters.]

22. [No voter to sign more than one requisition.]

23. [Names of candidates and persons signing requisition to be published.]

VII. Manner of Polling.[1]

24–41. [Time and manner of voting, appointment of scrutineers, publication of election results, etc.]

[1] Voting by ballot was arranged for by Act No. 13 of 1893.

VIII. Corporate Officers.

42. On the Saturday following the day of every general election in every year, the Councillors shall elect from among themselves, by a majority of votes, the Mayor of the Borough, who shall hold office until the election of his successor.

43. [Mayor to be *ex officio* Justice of the Peace.]

44–46. [Vacancy in mayoralty, how to be filled.]

47. [Members of Legislative Council, office-holders of government, and members of army and navy to be exempt from serving as Councillors.]

48. [Office of Mayor, how forfeited.]

49. [Councillors not to enter into contracts.]

IX. Powers of the Council.

50. The Council shall have power and authority to do the following acts: [To make roads, streets, bridges, and waterworks; prevent destruction by fire; abate nuisances; establish markets; assize weights and measures; regulate slaughterhouses; register carts and wagons; make rules for the use of common pasture lands, and establish and regulate pounds.]

51. [Council to frame bye-laws.]

52. [Council to raise funds for public works by sale or mortgage of land.]

53. [Council may lease corporation lands for periods not exceeding fifty years.]

54. [Similarly council may lease mines.]

55. [Lands not to be sub-let.]

X. Meetings of Council.

56. [Majority of council to decide questions.]

57. [Ordinary meetings to be held once a month.]

58. [Special meeting may be called for a specified object.]

59. [Meetings to be open to the public.]

60. [Mayor, if present, to preside. In his absence, council to elect a chairman.]

61. [Person presiding to have a casting vote.]

62. [Minutes to be kept.]

63. [Minutes to be open to inspection.]

XI. Appointment of Committees and Public Officers.

64. [Council may appoint committees out of their own number for special purposes.]

65. [Council to appoint Town Clerk, Treasurer, etc. and fix their salaries.]

66. One-half of the cost of maintaining the Police Force for the Borough shall be paid out of the funds belonging thereto,

and the other half of such cost shall be paid out of the Public Treasury of the District.

67. [For this purpose the Council shall receive the amounts arising from certain licenses.]

68. The said Police Force shall be under the control and management of a Board, to be called the Borough Police Board, which shall consist of the Resident Magistrate, the Mayor, and one of the Councillors, elected by the Council.

69. The said Board shall, with the consent of the Lieutenant-Governor, have power to appoint and remove constables, and to make regulations touching their number, pay, allowances, and duties; and such constables shall have all such powers, and be subject to all such liabilities as Constables may by law have or be liable to, and shall obey all lawful directions touching the execution of their office, which they may from time to time receive from the Resident Magistrate, or other Magistrates, or Justices of the Peace having jurisdiction within the Borough.

XII. Regulations regarding Assessments, Tolls, and Dues. [70–84.]

XIII. Rights reserved by the Government within the Borough.

85. [Wharves, arsenals, and other public buildings to be considered as not forming part of any Borough.]

XIV. Miscellaneous Provisions.

86. [Manner of publishing notices, accounts, etc.]

87. [Penalties to be recovered before resident magistrates.]

88. [No person to be deemed an incompetent witness by reason of his being liable to contribute to any Borough rate.]

89. [Council liable to be proceeded against.]

90. [Ordinance to take effect from the date of publication.]

[Schedules.] *P.R.O., C.O.* 180/1.

MUNICIPAL CORPORATIONS. [16 Aug. 1861.] No. 21, 1861.

No. 134. *Law.*—For improving and consolidating the Laws in regard to Municipal Corporations.[1]

[Ordinance No. 1, 1854, is repealed, but substantially re-enacted by this law, except that provision is made for the payment of mayors, the property and occupancy qualification of electors is doubled, the property qualification of councillors is trebled, and Councils are authorised to

[1] Cf. also Law No. 19, 1872, "To repeal and re-enact with amendments the Laws in regard to Municipal Corporations,"—not printed in full in this volume.

issue trade licenses and employ the fees paid for the use of their respective boroughs. Novel principles are contained in the following sections:]

77. The Mayor shall hold a Court in every borough, which Court shall be a Court of Record, and shall be designated the "Borough Court." Provided always, that the Mayor shall not hold such Court until the Lieutenant-Governor shall, by proclamation, declare that the power of holding such Court may be applied to any borough now existing, or hereafter to be created; and provided, that no such proclamation shall be issued, unless on application of the Council, founded on resolution carried by three-fourths of a full Council.

78. [In absence of mayor, Council to elect a Councillor to hold the Borough Court.]

79. The Mayor and the said Borough Court shall, within the limits of the borough, have all the powers, authorities, and jurisdiction, civil and criminal, as are, by any Law or Ordinance now in force, vested in, or possessed by any Resident Magistrate, or in or by the Court of such Resident Magistrate, as the case may be: Provided that the said Mayor shall have no power, authority, or jurisdiction in respect of any Laws in regard to the sale, purchase, dealing, or possession of fire-arms, gunpowder, or other munitions of war; and provided, that the Mayor of Durban shall not be competent to exercise the jurisdiction conferred on the Resident Magistrate of Durban by Ordinance No. 8, 1852, entitled, "Ordinance to extend the jurisdiction of the Resident Magistrate of the Division or County of Durban in Civil Cases."

80. All Laws or Ordinances now in force, or hereafter to be in force, except as aforesaid, and all rules now applicable to the Resident Magistrate, or to the Courts of the Resident Magistrate, shall be applicable within every borough, to the Mayor, or to the Borough Court hereby established.

81. The officers of the said Borough Court shall be appointed by the Mayor and a majority of the Councillors of every borough, and shall be paid out of the funds of every such borough.

82. [The fees and charges taken shall be paid into the Borough Funds.]

83. On the proclamation of any Borough Court under this Law, the Resident Magistrate and the Resident Magistrate's Court shall cease to exercise any power, authority, or jurisdiction within the borough, in respect of any cause or action arising within the limits of the borough.

84. [Jurisdiction of Resident Magistrate of Durban under previous ordinances not repealed by this Law.]

85. Nothing in this Law contained shall be construed to

prevent the Resident Magistrate from holding the Court of the Resident Magistrate, and from exercising the powers by law vested in him as such Resident Magistrate for the County or Division, in the borough town, or at any other place within the borough.

86. [Borough Court to have no jurisdiction over the county gaol.]

87. Every borough may establish, erect, construct, and maintain a lock-up house, for the temporary detention of persons arrested, and may appoint such officers as to the Mayor and a majority of the Council of such borough, may appear fit and necessary for the proper management and government thereof.

P.R.O., C.O. 180/2.

MUNICIPAL CORPORATIONS.

No. 19, 1872.

No. 135. *Law* to repeal and re-enact with Amendments the Laws in regard to Municipal Corporations. [20 Dec. 1872.]

[The provisions relating to the Borough Courts mentioned in Law No. 21, 1861, are omitted; but the following clause is of special interest:]

74. The Council may make such bye-laws as they shall deem meet for the ordering of their proceedings, not being inconsistent with the provisions of this Law, for conducting the elections of Mayor, Councillors, and Auditors, in any cases which may not be sufficiently provided for by this Law, and for determining the duties of any officers, servants, and others appointed by the Council; and all such bye-laws as to them shall seem meet for the more effectual exercise of the powers, permissions, regulations, and authorities hereby given, and for the good rule and government of the borough, and from time to time may alter, amend, vary, or annul such bye-laws; and may make such regulations, and determine such punishments and fines as they may consider requisite for the prevention and suppression of offences, and for the better enforcement of the said several bye-laws, and for the recovery of the costs of prosecution in cases of contravention of bye-laws; and may give power to the police or other proper officers summarily to arrest persons contravening such bye-laws, or the provisions of the Vagrancy Law, No. 15, 1869, where applicable to boroughs, and lodge them in the station-house of the borough until they can be brought up for trial, and may give power to the officer in charge of such station-house to take bail in certain cases for the appearance of such persons, and for the summary trial and conviction of offenders: Provided,

that no such punishment shall exceed imprisonment with or without hard labour, and with or without spare diet, for a period of three months, of a fine of Ten pounds sterling, or imprisonment as aforesaid, in default of payment of any such fine and costs: Provided, that the bye-laws in force at the time of the passing of this Law shall, until repealed by the Council, be and continue in force as bye-laws under this Law: And provided always, that the superintendent of police of any borough, or other person appointed by the Council, shall and may at his own instance, and without obtaining permission or certificate from the Attorney-General, prosecute in the Resident Magistrate's Court in the borough, for all contraventions of such bye-laws and of the said Law, No. 15, 1869, and of the Law or Ordinances in clause seventy-one mentioned, provided such contraventions be committed in the borough.

* * *

Ordinances, . . . of Natal, ii. 941.

SECTION C.

ADMINISTRATION OF JUSTICE.

ESTABLISHMENT OF THE ROMAN-DUTCH LAW.

No. 12, 1845.

No. 136. *Ordinance.*—Enacted by His Excellency the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, for establishing the Roman-Dutch Law in and for the District of Natal. [27 Aug. 1845.]

WHEREAS it has pleased Her Majesty the Queen, by certain Letters Patent, bearing date 31st day of May, in the Seventh Year of Her Reign, to annex to this Settlement of the Cape of Good Hope, as a part or portion thereof, the District of Natal in South Africa: And whereas by the said Letters Patent, it is amongst other things provided, that no law, custom, or usage in force within this Settlement should, by virtue merely of the said Letters Patent, extend to, or become in force, within the said District of Natal; but that it should be competent for the Legislature of this Settlement, subject to the limitations, conditions, and provisions in the said Letters Patent mentioned or referred to, to make, ordain, and establish all such Laws and Ordinances as to them should seem meet for the peace, order, and good government of the said District of Natal. . . .

And whereas it is expedient, without awaiting the legislative establishment within the said District, of the Court or Courts for the administration of Justice, which is, or are, now about to be created, to make provision for the establishment of such Laws as are immediately and indispensably required for the preservation, in the meantime, of peace and good order, and the repression of violence, injury, and injustice amongst all Persons resident in the said District: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that the system, code, or body of law commonly called the Roman-Dutch Law, as the same has been and is accepted, and administered by the legal tribunals of the Colony of the Cape of Good Hope, shall be, and the same is hereby, established as the law, for the time being, of the District of Natal, (as the said District shall, from time to time, be limited and defined by or on behalf of Her Majesty the Queen,) and of Her Majesty's Subjects, and all others residing and being within the said District: Provided, however, that nothing herein contained shall be deemed, or taken, to establish within the said District, any Law or Ordinance heretofore at any time made or passed in this Colony, by or through the Local Government or Legislature thereof, or to give any existing Court or Magistrate of the said Colony, any authority or jurisdiction over or in regard to the said District, or to prevent the said system, code, or body of law from being hereafter added to, or altered, in regard to the said District, by any competent authority.

And be it enacted, that it shall and may be lawful for the Governor aforesaid to address to any one or more of Her Majesty's Subjects residing within the said District one or more commission or commissions, authorizing him or them to exercise within such District the office of a Magistrate, for the purpose of preventing the perpetration therein of any crimes and offences punishable by law, and for the purpose of arresting and committing to custody for trial before the certain court or courts now about to be established within the said District, any person or persons charged, on sufficient evidence, with the commission of any crimes or offences within the said District, which shall have been committed after the date of the publication of this Ordinance in the *Government Gazette*, as hereinafter mentioned: Provided always that every such commission shall be revocable at pleasure; and provided also, that any person committed for trial by any such Magistrate who shall not be brought to trial within six months from the date of his commitment, shall, at the expiration of such term of six months, be discharged from custody, upon entering into his own recognizance, conditioned in such sum as shall

appear just and reasonable, to appear before any such court or courts as aforesaid, when duly summoned so to do, there to answer to any such charge as may be preferred against him.

And be it enacted, that this Ordinance shall commence and take effect from and after the date of the promulgation thereof, by publication thereof in the *Government Gazette*.

GOD SAVE THE QUEEN.

Given at the Cape of Good Hope this Twenty-seventh day of August 1845.

By Command of His Excellency the Governor,
(Signed) JOHN MONTAGU,
Secretary to Government.

By Order of the Legislative Council,
(Signed) K. B. HAMILTON,
Clerk of the Legislative Council.
P.R.O., C.O. 50/2.

DISTRICT COURT. [16 Oct. 1845.]

No. 14, 1845.[1]

No. 137. *Ordinance.*—For erecting a District Court in and for the District of Natal.

WHEREAS in order to the due administration of justice in the district of Natal, it is expedient that a district court of justice should be therein erected; Be it therefore enacted by the Governor of the Cape of Good Hope with the advice and consent of the Legislative Council thereof, that there shall be erected, created and constituted, within the said district of Natal, a certain court to be called and known as "the District Court of Natal."

2. [To be a court of record.]

3. And be it enacted, that the said court shall consist of, and be holden by and before, one judge, to be called and known by the style and title of the Recorder[2] of the District of Natal, and which said recorder shall, from time to time, be nominated and appointed by Her Majesty the Queen, her heirs and successors, in such manner and form as her said Majesty shall deem most fitting, and which said recorder shall be a barrister in England or Ireland, or an advocate of the court of session in Scotland or . . . of the supreme court of the colony of the Cape of Good Hope.

4. [Until such Recorder appointed by the Queen shall arrive in Natal, the Governor shall nominate some fit person to act as Recorder.]

[1] Repealed by Law No. 10 of 1857, below.
[2] By Ord. No. 18 of 1856 he was to be designated Attorney-General.

5. [Recorder to take oaths taken by the chief justice of the Cape.]

6. [Lieutenant-Governor of Natal may appoint temporarily to the office if it should fall vacant.]

7. [Recorder to hold his office during good behaviour. Upon proof of misconduct the Lieutenant-Governor of Natal may, with the advice of his executive council, suspend the Recorder; but report of such suspension is to be made forthwith to the Governor of the Cape for transmission to Her Majesty.]

8. [Full power is reserved to Her Majesty to confirm or disallow such suspension; as well as full power, upon sufficient proof of misconduct, to remove the Recorder.]

9. [Rank and precedence of Recorder.]

10. [District Court to have a seal.]

11. [Seal to be kept by Recorder.]

12–13. [Salary of Recorder.]

14. [Officers corresponding to sheriff, registrar and master of Cape Supreme Court, to be appointed by the Queen. Other officers to be appointed by the Lieutenant-Governor of Natal. All officers to hold office during the Queen's pleasure.]

15–19. [Admission of advocates and attorneys.]

20. [District Court to have the same jurisdiction as the Cape Supreme Court.]

21. [District Court to judge according to laws now in force in Natal or hereafter to be made for Natal by Parliament, by the Privy Council or by the Legislative Council of the Cape.]

22. [Proceedings to be in open court and in the English language. In criminal cases witnesses shall deliver their evidence *viva voce* and in open court.]

23. [Criminal cases to be tried before the Recorder and a jury of nine. No juror to be disqualified merely by reason of his ignorance of the English language.]

24. [The chief seat of the District Court is to be Pietermaritzburg.]

25–26. [Recorder shall hold his court at least twice a year in such other divisions as the Lieutenant-Governor shall proclaim.]

27. [No sentence of the District Court involving death, transportation or banishment shall be carried out until approved of by the Lieutenant-Governor.]

28. And be it enacted, that it shall and may be lawful for the district court aforesaid, in any criminal case pending in or before the said court, after a verdict of guilty shall have been recorded, to abstain, should the said court see cause, from then passing sentence upon the person convicted, and to order and direct that such case be removed from the said

district court to the supreme court of the Colony of the Cape of Good Hope, for the decision, or determination, of any points or questions of law arising in such case; and upon such removal being certified, . . . the said last-mentioned court shall proceed to adjudge, decide or determine the said points or questions, and shall then remit the case with its judgment, decision or determination to the said circuit [district?] court, which said court shall conform to, and give effect to, the same; [provided that it shall not be necessary for the person convicted to be present in the supreme court; meantime the district court shall commit to prison the person convicted or release him on bail].

29. [Rules of court to be framed by the District Court.]

30. [In all civil suits appeals may be made to the Supreme Court of the Cape.]

31–33. [Regulation of such appeals.]

34. [A case coming before the Supreme Court or the District Court may be removed by the court concerned to the other court.]

35. [The District Court shall see to the execution of judgments, decrees, etc. pronounced by the Supreme Court and Circuit Courts.]

36. [Certified records of cases to be supplied by one court to the others if required.]

37. [Lieutenant-Governor of Natal to notify where and when the District Court shall be held.]

38. [Interpretation of terms.]

39. [Ordinance to take effect from date of promulgation.]

P.R.O., C.O. 52/11 (*C. of G. Hope Govt. Gaz.*, 17 Oct. 1845).

FIELD-CORNETS AND CONSTABLES. [7 Jan. 1846.]

No. 5, 1846.

No. 138. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, for creating Field-Cornets and Constables in and for the District of Natal.

WHEREAS it is expedient that the Lieutenant-Governor of the district of Natal should be authorised and empowered to appoint field-cornets and constables to act in the said district: Be it, therefore, enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that the said Lieutenant-Governor shall have, possess and exercise, in regard to the district of Natal, all and singular the like powers and authorities for appointing field-cornets and policemen, and for fixing the limits of field-cornetcies,

and of the bailiwicks of constables and policemen, as the Governor aforesaid has and possesses in regard to those parts of this colony other than the said district; And every field-cornet, constable and policeman so appointed as aforesaid shall be, within his ward or bailiwick, as the case may be, an officer of the law proper for the execution of criminal warrants, within the meaning of Ordinance No. 18, 1845, and shall, moreover, have and enjoy the powers and authorities, and perform the same or similar duties as those by law belonging to field-cornets, constables and policemen respectively, in those parts of this colony other than the district aforesaid.

2. And be it enacted, that it shall and may be lawful for the Lieutenant-Governor aforesaid, by any writing under his hand, to authorise any magistrate, justice of the peace or other person within the district of Natal, to appoint constables and policemen respectively, in such numbers and under such conditions and regulations as the said Lieutenant-Governor shall, from time to time, fix and prescribe,—and every constable or policeman so appointed shall have and possess the same powers and authorities as a constable or policeman appointed directly by the said Lieutenant-Governor.

3. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof, by any proclamation to be by the Lieutenant-Governor of the said district for that purpose issued and posted upon, or affixed to, any public place in Pietermauritzburg, in the said district.

GOD SAVE THE QUEEN.

P.R.O., C.O. 50/2.

JUSTICES OF THE PEACE. [7 Jan. 1846.]
No. 6, 1846.

No. 139. *Ordinance.*—Enacted by His Excellency the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL thereof, for creating Justices of the Peace within the District of Natal.

WHEREAS it is expedient that Justices of the Peace should be appointed for the district of Natal, having the like powers and authorities as Justices of the Peace in other parts of this Colony: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that it shall and may be lawful for the Lieutenant-Governor of the district of Natal to appoint, by commissions under his hand and seal, Justices of the Peace for the said district, and to assign to every such Justice of the

Peace as the bounds or limits within which he shall be empowered to act, either the whole of the said district, or such a portion or division of the same as he, the said Lieutenant-Governor, shall deem fitting and shall define.

2. [Justices to take oaths of allegiance and office.]

3. And be it enacted, that all and singular the clauses and provisions contained in the 2nd and remaining sections of the Ordinance No. 32, of 1827, entituled "Ordinance for creating Justices of the Peace in this Colony," shall, except as hereinafter in this section excepted, be deemed and taken to apply to the jurisdiction, powers, rights, and privileges of Justices of the Peace appointed under and by virtue of this Ordinance, and that as fully as if the said sections were herein again set forth, and word for word repeated. Provided, however, that when the clerk of the peace is mentioned and referred to in the 3rd section of the said Ordinance, the Crown Prosecutor of Natal shall be deemed and taken to be meant and intended.

4. [Justices to act as magistrates in criminal cases.]

5. [Ordinance to take effect from such date as shall be fixed by the Lieutenant-Governor by Proclamation.]

P.R.O., C.O. 50/2.

RESIDENT MAGISTRATES. [24 April 1846.]

No. 16, 1846.

No. 140. *Ordinance.*—Enacted by the GOVERNOR OF THE CAPE OF GOOD HOPE, with the advice and consent of the LEGISLATIVE COUNCIL, for creating Resident Magistrates within the District of Natal.

WHEREAS it is expedient to provide for the more effectual administration of justice within the district of Natal, and for that purpose to create and establish certain inferior courts within the same: Be it, therefore, enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that it shall and may be lawful for the Lieutenant-Governor of the district of Natal, from time to time, as occasion may require, to appoint one magistrate, who shall be called "The Resident Magistrate," for each and every division into which the said district of Natal shall be divided, for the purposes of this Ordinance as hereinafter mentioned.

2–3. [Declaration of divisions. Magistrates to take an oath.]

4. And be it enacted, that every such Resident Magistrate shall have jurisdiction in all civil cases within the division for which he shall have been appointed, wherein the sum or

matter in dispute shall not exceed the amount or value of £15, and wherein the title to any lands or tenements, or any fee, duty, or office, is not in question, or whereby rights in future cannot be bound.

5. And be it enacted, that the said Resident Magistrate shall have jurisdiction without appeal, in all cases of crimes and offences wherein any person may be accused of any crime or offence not punishable by death, banishment, or transportation: Provided, always, that it shall not be lawful for any Resident Magistrate to punish any offender in any higher or more severe manner than by fine not exceeding £10, and imprisonment, with or without hard labour, for a period not exceeding three months, and by whipping privately in prison not exceeding 25 lashes; except as to such crimes or offences for the commission of which any higher or more severe punishment, whether by fine or imprisonment, or both, shall be provided, and in which jurisdiction shall be expressly given by any special law or ordinance.

6. And be it enacted, that such Resident Magistrates shall have jurisdiction in all cases of fines or penalties not exceeding £40, which have been, or shall be, imposed on persons for offences by any ordinance which at any time hereafter shall be in force in the said district of Natal, for the recovery of which no provision repugnant to, or inconsistent with, the provisions contained in this and the three next succeeding sections of this Ordinance shall be expressly made in such law or ordinance. . . .

7–9. [Proceedings in event of non-payment of fines.]

10. [Magistrates under this Ordinance to be Magistrates within the meaning of Ordinance 18, 1845.]

11. [In what divisions offences may be tried.]

12. [Offences upon persons or property in or upon vehicles or vessels, triable in any division through which they may have passed.]

13. [Courts to be held on two days a week, or oftener.]

14. [To be courts of record.]

15. And be it enacted, that it shall and may be lawful for any party conceiving himself aggrieved by any judgment or decision of any Resident Magistrate, (save and except such judgments or decisions as may have been made under and by virtue of the 5th section of this Ordinance,) to appeal against such judgment or decision to the district court of Natal; or otherwise, to bring the same under the review of the said court.

16. [Public prosecutions to be conducted by the Crown Prosecutor or other person appointed for that purpose.]

17. [Private parties may conduct their own cases.]

18. [But the Crown Prosecutor may take up, stay, and conduct further proceedings if necessary.]

19. [Magistrate may stop further proceedings in important cases and refer them to the district court.]

20. [All sentences, documents, etc. to be in English. Evidence to be *viva voce*, and in open court.]

21. [Lieutenant-Governor of Natal may separate civil from criminal jurisdictions, and make other arrangements in that respect.]

22. [Lieutenant-Governor, with the advice of the recorder of Natal, may frame rules for courts.]

23. [Explanation of terms.]

24. [Ordinance to commence on proclamation by Lieutenant-Governor.]

P.R.O., C.O. 50/2.

ADMINISTRATION OF JUSTICE AMONG NATIVES.

No. 3, 1849.—(Signed) M. WEST. [23 June 1849.]

No. 141. *Ordinance.*[1]—For repealing so much of Ordinance No. 12, 1845, as is inconsistent with a Proclamation issued by the Lieutenant-Governor of the District of Natal, on the 21st day of June 1849, and with the provisions of this Ordinance; and for providing for the better Administration of Justice among the Natives.

WHEREAS, on the 21st day of June 1849, the Lieutenant-Governor issued the following Proclamation, to wit:

PROCLAMATION.

Whereas Her Most Gracious Majesty the Queen was pleased by Instructions addressed to the Officer for the time being administering the Government of the District of Natal, dated at Buckingham Palace, on the Eighth day of March, Eighteen Hundred and Forty-eight, under the Royal Sign Manual and Signet, and with the advice of the Privy Council, amongst other things to direct:

"Twenty-Eighth.—And whereas the said District of Natal is inhabited by numerous Tribes, Natives of the said District, or of the Countries thereunto adjacent, whose ignorance and habits unfit them for the duties of civilized life, and it is necessary to place them under special control, until having been duly capacitated to understand such duties, they may reasonably be required to render ready obedience to the Laws in force in the said District; We do hereby declare it to be Our Will and Pleasure, that you make known by Proclamation

[1] Repealed by Law No. 26, 1875 (p. 247).

to Our loving Subjects, and all other persons residing in the said District, that in assuming the Sovereignty thereof, We have not interfered with or abrogated, any Law, Custom, or Usage prevailing among the Inhabitants previously to the assertion of Sovereignty over the said District, except so far as the same may be repugnant to the general principles of humanity recognized throughout the whole Civilized World, and that We have not interfered with, or abrogated the power which the Laws, Customs, and Usages of the Inhabitants vested in the said Chiefs, or in any other persons in authority among them, but that in all transactions between themselves, and in all Crimes committed by any of them, against the Persons or Property of any of them, the said Natives are (subject to the Conditions already stated) to administer justice towards each other as they had been used to do in former times. Provided nevertheless, and We do hereby reserve to Ourselves full power and authority as We from time to time shall see occasion, to amend the Laws of the said Natives, and to provide for the better administration of Justice among them, as may be found practicable."

Now, Therefore, I, the Lieutenant-Governor, administering the Government of the District of Natal, do hereby so proclaim Her Majesty's royal will and pleasure accordingly.

GOD SAVE THE QUEEN.

Given under my hand, and the Public Seal of the District, at Pietermaritzburg, this Twenty-first day of June 1849.

(Signed) M. WEST.

By Command of His Honour the Lieutenant-Governor,

(Signed) D. MOODIE, *Secretary to Government.*

And whereas, in order to give effect to Her Majesty's said instruction, it is necessary that the Ordinance No. 12, 1845, entitled . . . and all other laws and ordinances, in so far as the same are at variance with, or repugnant to, Her Majesty's said instruction, should be repealed:

And whereas justice has been hitherto administered among the said natives, with advantage to themselves, and to the public peace and tranquillity of the District, by the chiefs, and others in authority among them—under the special controul, direction, and revision, however, of an Officer hitherto denominated the Diplomatic Agent, acting under the authority and instructions of the Lieutenant-Governor, whom the several native chiefs and tribes have hitherto regarded as their Supreme Chief, and to whom they have voluntarily yielded the same respect and obedience which they have been accustomed to yield to Supreme Chiefs of their own race; and it is expedient, in pursuance of the power reserved by Her Majesty, to amend

the native laws, and provide for the better administration of justice among them, that this salutary controul should be continued:

1. Be it therefore enacted, that from and after the date of the promulgation of this Ordinance, the said Ordinance, No. 12, 1845, and all other laws and ordinances, in so far only as the same are at variance with, or repugnant to, Her Majesty's said instruction, and to any of the provisions of this Ordinance, shall be, and the same are hereby, repealed accordingly.

2. And be it enacted, that it shall and may be lawful for the Lieutenant-Governor to appoint any fit and proper person or persons, with authority to controul, revise, and direct the administration of justice, according to the native law throughout this District, or in such parts of the same as to him may seem fit; Provided, however, that all such fines and forfeitures as, according to native law or usage, would accrue to the Supreme Chief, or to such person or persons as aforesaid, shall be paid into the treasury of the District.

3. And be it enacted that there shall be an appeal to the Lieutenant-Governor, acting with the advice of the Executive Council of this District, for the time being, in all cases whatsoever, between natives, and which have been tried according to native law, and that the decision of the said Lieutenant-Governor, so acting as aforesaid, shall be final.

4. And be it enacted, that the Lieutenant-Governor of this District shall hold and enjoy, over all the chiefs and natives in this District, all the power and authority which, according to the laws, customs, and usages of the natives, are held and enjoyed by any supreme or paramount native chief, with full power to appoint and remove the subordinate chiefs, or other authorities among them.

5. And be it enacted, that all crimes heretofore committed, or which may hereafter be committed, by any of the said natives, against the persons or property of any of them, as well as all transactions between themselves, shall be cognizable according to the native law, under the provisions of this Ordinance, and not otherwise; and that all acts, matters, and things, and all decisions or judgments, heretofore done or performed, or pronounced or executed, by any of the said chiefs, or other persons in authority among them, or by any officer acting under the authority of the British Government, in pursuance of native law, usage, or custom, shall be, and the same are hereby, ratified and confirmed—subject only to the revision, and final decision, of the Lieutenant-Governor, so acting in appeal as aforesaid.

6. And be it enacted, that all officers, chiefs, and persons as aforesaid, who shall so have acted as last aforesaid, prior

to the passing of this Ordinance, shall be, and they are hereby, jointly and severally, indemnified, freed, and discharged, from and against all actions, suits, prosecutions, and penalties whatsoever, under the Colonial or Roman-Dutch Law, for or on account, or in respect, of all or any acts, matters, and things whatsoever, done, ordered, directed, or authorized by them, so acting in pursuance of native law, custom, or usage.

7. And be it enacted, that all crimes, which may be deemed repugnant to the general principles of humanity, recognized throughout the whole civilized world, which have heretofore been, or may hereafter be, committed by any of the said natives, against the persons or property of any of them, shall be only subject to prosecution in the Colonial Courts, at the instance of the Crown Prosecutor, and not otherwise.

8. And be it enacted, that this Ordinance shall take effect from and after the date of the promulgation thereof.

P.R.O., C.O. 180/1, and *Ords., Procls., etc., of Natal*, 1836 to 1855, p. 279.

TRIAL BY JURY.—CONSTITUTION AND FORMATION OF JURIES. [18 May 1852.]

No. 6, 1852.

No. 142. *Ordinance.*—To amend and consolidate the Law relative to the constitution and formation of Juries.

WHEREAS for the better and more effective administration of Justice within the District, it is expedient to amend and consolidate the law relating to the constitution of Juries: Be it therefore enacted by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

I. CONSTITUTION OF JURIES.

1. Every man, except as hereinafter excepted, between the ages of 21 and 60 years, who shall possess any immovable property of the value of £50,[1] or who shall rent any such property of the yearly value of £10 [1] within the District, or who shall be the son of such person, shall be qualified and liable to serve as a juror therein.

2. The following persons shall be exempt from serving as jurors:

1st. Members of the Executive and Legislative Councils.

2nd. Persons holding office in the civil service of the Government of the District.

[1] These sums were changed to £100 and £24 respectively by Law No. 10, 1871, not printed.

3rd. The Officers of any Courts of Law; all Advocates and Attorneys of the same; and all Gaolers and Keepers of Houses of Correction.
4th. Clergymen, Priests, and Ministers of Religion.
5th. Physicians, Surgeons, and Apothecaries in actual practice.
6th. Officers of Her Majesty's Army and Navy on full pay.
7th. Masters of Vessels actually employed, and licensed Pilots.

3. No man who has been convicted of treason or any other infamous crime, unless he shall have received a free pardon, shall be qualified to serve on any jury.

II. Formation of Jury List.

4–8. [How a jury list is to be framed for each division or county.]

III. Mode of Summoning Juries.

9–15. [Sheriff or his deputy shall summon 27 jurors at least 8 days before the court commences to sit.]

16. [Every man failing, without reasonable excuse, to attend, is liable to a fine of £10.]

IV. Formation of Juries.

17–22. [Necessary number of jurors to be chosen by lot.]

V. The Challenging of Jurors.

23. All challenges must be made as the name of each juror is called and before he is sworn.

24. In criminal cases the prosecutor or the prisoner may challenge three jurors without assigning any cause, and may challenge any number of jurors for any of the following causes, upon proof thereof to the satisfaction of the Court—that is to say:

1st. Want of qualification.
2nd. Consanguinity or affinity within the fourth degree.
3rd. Favour to the prisoner or to the person entitled to prosecute, if the Public Prosecutor does not prosecute.

25. In civil[1] cases no peremptory challenge shall be allowed, but either of the parties, or his advocate, may challenge any number of jurors for any of the following causes, upon proof thereof as aforesaid—that is to say:

1st. For either of the two first causes mentioned in the 24th section of this Ordinance.

[1] See the next document.

2nd. For having directly or indirectly an interest in the result of the case.

3rd. For being related by consanguinity or affinity, within the fourth degree, to any person who has an interest in the result of the case.

4th. For having previously expressed an opinion as to the merits of the case.

26. In case there shall be reason to believe that any person, not liable to challenge for any of the foregoing causes, is nevertheless for any reason likely to be biassed in favour of either of the parties to the case, the Court shall, upon the motion of either party, or his advocate, cause the names of three persons to be drawn from the names remaining in the ballot-box, who shall be called triers, and shall try the impartiality of the juror objected to, without appeal.

27. Provided that such triers shall be liable to challenge in the same manner as jurors.

VI. Miscellaneous Provisions.

28. [After being charged with a case, jury to be kept apart.]

29. [If they cannot reach a decision, the court to charge a new jury.]

30. [Formulæ for delivering verdict in criminal and civil cases.]

31. In criminal cases the jury may acquit the prisoner of part of the charge against him, and find him guilty of the remainder.

32. In all cases the jury may return a special verdict, finding the facts of the case and referring the law to the Court.

VII. Provisional Jury List.

33. [List for criminal cases to serve temporarily also for civil cases.]

VIII. Repeal of Former Laws.

34. The Ordinance No. 17, 1845, entituled, "An Ordinance for determining the Qualification of Jurors in the District of Natal"; and so much of the Ordinance No. 32, 1846, entituled "An Ordinance for amending the Law regarding certain Rules of Court," as relates to Juries, shall be, and the same are hereby repealed.

35. [Ordinance to take effect from the date of promulgation.]

P.R.O., C.O. 180/1.

TRIAL BY JURY IN CIVIL CASES. [18 May 1852.]

No. 7, 1852.[1]

No. 143. *Ordinance.*—To introduce the institution of Trial by Jury in Civil Cases.

WHEREAS it is necessary to introduce Trial by Jury in Civil Cases under certain circumstances:

Be it therefore enacted by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. Whenever an issue of fact, except in the cases hereinafter mentioned, shall have been joined in the District Court or any Circuit Court, or in the Court of the Resident Magistrate of Durban, in any civil action or cause, wherein the sum or matter of dispute shall exceed the amount or value of £15, the same may, upon the application of either of the parties, his attorney or advocate in such case, be tried by a jury in manner hereinafter mentioned.

2. No trial by jury shall be had in the following cases:

1st. Where the Plaintiff claims a provisional judgment in virtue of any written acknowledgment of a debt, signed by the Defendant or on his behalf.

2nd. Where a matter of record, as a judgment, or the like, is pleaded in any Action, and the opposite pleads that there is no such record existing.

3. Such application shall be made in writing to the Registrar or Clerk of the Court as the case may be, seven clear days before the day appointed for the hearing of the cause.

4. Every party making such application as aforesaid shall at the same time pay to the Registrar or Clerk of the Court the sum of Thirty Shillings for payment of the jury, and such sum shall be costs in the cause.

5. [Notice of application to be given to the opposite party.]

6. [Court to be assured of such notice having been given.]

7. The jury in civil cases shall consist of seven men, whose verdict shall be unanimous.

8. The Court shall set aside the verdict or decision of the jury and grant a new trial upon any of the following grounds:

1st. Where the jury or any of them have received a bribe.

2nd. Where the jury or any of them have conversed otherwise than openly in the presence of the Court, with any party to the cause, or the agent, attorney, or advocate of such party, on the subject of the trial, after having been sworn.

[1] Compare with the Cape Jury Act of 1854 (p. 122).

3rd. Where the verdict was manifestly against the evidence, the law, or the legal instructions of the Court.

4th. Where the Court has misdirected the jury upon any point of law or fact; provided objection shall have been taken to the direction of the Court, as to any specific point or points, during the trial.

5th. Where the debt or damages found by the jury are greatly too much or too little when compared with the evidence.

6th. Where either of the parties has been taken by surprise at the trial by the production of evidence which he had no reason whatever to anticipate.

9. The Court shall in all cases refuse to grant a new trial except in cases in which it shall be fully satisfied that substantial justice has not been done.

10. [A party wishing to apply for a new trial shall give notice.]

11. [Application to be made in open court.]

12. [New trial may be granted on terms imposed by court.]

13. [Court to prevent any party from addressing the jury on points not relevant or that cannot be proved by evidence.]

14. [Jurors to receive 2s. a day for serving.]

15. All matters relating to trial by jury of civil cases not herein expressly provided for shall be determined as nearly as practicable according to the law and usage of England.

16. [Governor may extend provisions hereof to any court in Natal.]

17. [Ordinance to take effect from date of promulgation.]

P.R.O., C.O. 180/1.

SUPREME AND CIRCUIT COURTS. [10 July 1857.]

No. 10, 1857.

No. 144. *Law.*—Enacted by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, for the better Administration of Justice within the Colony of Natal.

WHEREAS it is expedient to make provision for the better and more effectual administration of justice within this Colony, and for that purpose to repeal certain laws now in force; and to constitute a Supreme Court of Justice, and also Circuit Courts, to be holden in manner and form hereinafter mentioned.

Be it therefore enacted, by the Governor of Natal, by and

with the advice of the Legislative Council thereof, as follows, viz. :

1. The Ordinance No. 14, 1845, entituled, " An Ordinance for erecting a District Court in and for the District of Natal," shall be, and the same is hereby, repealed.

2. [Former sentences, rules, etc. not affected.]

3. [Actions, etc. pending may be proceeded with.]

4. There shall be within this Colony a Court which shall be called " the Supreme Court of the Colony of Natal."

5. The said Supreme Court shall be a Court of Record.

6. The said Supreme Court shall consist of one Chief Justice and two Puisne Judges.

7. The said Supreme Court shall at all times be holden at Pietermaritzburg, in the Colony of Natal.

8. The said Chief Justice and Puisne Judges shall be respectively barristers in England or Ireland, or advocates of the Court of Session in Scotland, or of the Supreme Court of the Cape Colony, or advocates of the District Court heretofore existing, or of the Supreme Court hereby created.

9. [Provisional appointment of Judges by Governor.]

10. The said Chief Justice and Puisne Judges shall respectively hold office during good behaviour.

11-12. [Salaries of Judges.]

13-14. [Court to have a seal to be kept by Chief Justice.]

15. [Officers of the Court : Registrar and Master.]

16-19. [Who to be admitted as advocates and attorneys.]

Circuit Courts.

20. To facilitate the holding of courts the Governor may, by proclamation, divide the Colony into as many districts as to him may seem fit ; and further may, from time to time, as occasion may require, alter or amend such division.

21. Courts, to be called Circuit Courts, shall be held in each of the districts into which the said Colony may be so divided.

22. Each of the said Circuit Courts shall be held by and before one of the Judges of the said Supreme Court, at such times, and at such places, within each of the said districts, as the Governor shall, from time to time, direct and appoint.

23. Each of the said Circuit Courts shall be a Court of Record.

24. [Clerk of Resident Magistrate to act as Registrar of visiting Circuit Court.]

Jurisdiction.

25. The Supreme Court of the Colony of Natal shall have cognizance of all pleas, and jurisdiction in all causes, whether

civil, criminal, or mixed, arising within the said Colony, with jurisdiction over all Her Majesty's subjects, and all other persons whomsoever, residing and being within the said Colony, in as full and ample a manner, and to all intents and purposes, as the District Court of Natal, at present existing within the Colony, now hath.

26. Each Circuit Court shall, within the District in which it may be holden, have and exercise all such and the same jurisdiction, powers, and authorities, as is hereinbefore vested in the said Supreme Court.

27. The said Supreme Court and every Circuit Court within the district in which such latter Court may be holden, shall have full power, authority, and jurisdiction, to review the proceedings of all inferior Courts of Justice, and to exercise full supervision and control over all Magistrates, and, if necessary, to set aside or correct their proceedings.

LAWS.

28. The Supreme Court of the Colony of Natal and every Circuit Court shall apply, judge, and determine upon, and according to, the laws which now are, or shall hereafter be, in force within this Colony.

29. [Proceedings to be in open Court and in English.]

30. [Two Judges to form a quorum in civil cases tried without a jury.]

31. [If two Judges differ, the case shall be brought before three Judges.]

32. [Civil cases tried by a jury, to be held before one Judge.]

33. All civil suits depending in any of the said Circuit Courts, shall be tried and decided by the Judge of such Court alone, except when the plaintiff or defendant has, under the said Ordinance No. 7, 1852, applied to have such trial by a jury.

34. [Criminal cases to be tried before one Judge and a jury of nine.]

35. [A Court in which a case is pending may remove it to any other Court.]

36. [Manner of removing cases.]

37. [Civil suits shall be deemed to be pending when summons shall have been served.]

38. [Criminal suits shall be pending when the indictment has been lodged.]

APPEAL.

39. [Appeals to the Privy Council to be according to laws which allow appeals from any other Colonial Court.]

40. [Appeal from Circuit to Supreme Court in civil cases exceeding £20 tried without a jury.]

41. [Supreme Court to hear such appeal without receiving fresh evidence.]

42. [Notice of appeal to be given.]

43. [Execution to be stayed when notice of appeal is given.]

44. [Case considered abandoned if appeal is not prosecuted within six weeks.]

45. [Appeal in cases under the value of £20 may be allowed in certain cases.]

46. [In civil cases exceeding £20, evidence to be taken down by Registrar.]

47. [Copies of documents produced in such case shall be sent to Supreme Court.]

48. The said Supreme Court of Natal shall, in all cases of appeal from its judgment or decree in civil cases, heard and determined without a jury, conform to and execute such judgment or order in the premises as shall be made or given by Her Majesty in Her Privy Council.

49. It shall not be competent for either party to any civil suit tried and determined by a jury before the said Supreme Court or any Circuit Court, to appeal from the verdict given by such jury, which verdict shall be conclusive, unless set aside as hereinafter provided.

New Trial.

50. In all civil cases tried in the said Supreme Court, or any Circuit Court, by a jury, under the provisions of the said Ordinance No. 7, 1852, either party wishing to set aside the verdict of such jury, may apply for a new trial to the Supreme Court, under and subject to the provisions of the said Ordinance.

51. The said Supreme Court shall, in granting or refusing such new trial, conform to the provisions of the said Ordinance No. 7, 1852.

Records of Circuit Courts.

52–55. [Records to be removed to Supreme Court and filed.]

56. [Supreme Court to carry out sentences of the late District Court.]

57. [Records of District Court to be handed over to Supreme Court.]

58. [Sheriff of Natal to be appointed by Governor.]

59. [Duties of Sheriff.]

60. [Supreme Court to make rules.]

61. [Definition of terms.]

62. [Pietermaritzburg may be included in a circuit district.]

63. [Persons admitted to practise in Supreme Court may also practise in Circuit Courts.]

64. [Who may conduct cases in Circuit Courts.]

65. [As to process sued out against the Sheriff.]

66. This Law shall take effect at such date as shall by the Governor be fixed by Proclamation.

[Schedule of Judges' Salaries.]

P.R.O., C.O. 180/1.

PETTY DEBTS RECOVERY LAW, 1867. [4 Oct. 1867.] No. 14, 1867.

No. 145. *Law.*—To facilitate the recovery of small Debts and Demands within the Colony of Natal.

WHEREAS it is expedient to facilitate the recovery of small debts and other demands within the Colony of Natal, and for such purpose to empower the Resident Magistrates thereof to order and decree the incarceration of defaulting debtors in certain cases, and to make special provisions in relation to the same:

Be It Therefore Enacted by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. [Resident magistrates may order payment of civil debts by instalments. Security for payment to be given, unless waived by plaintiff.]

2. [Execution may be ordered for part or whole of unpaid sum only on default in payment of any instalment.]

3. [Defendant may be summoned and examined respecting his estate and effects, the circumstances under which the debt was contracted, etc.; and as to disposals he may make of property.]

4. If the party so summoned shall not attend as required by such summons, or shall not prove sufficient cause for not attending, or shall, if attending, refuse to be sworn or to disclose any of the things aforesaid, or if he shall not make answer touching the same to the satisfaction of such Resident Magistrate, or it shall appear to such Resident Magistrate, either by examination of the party, or by any other evidence, that such party, if a defendant, in incurring the debt or liability which is the subject of the action in which judgment has been obtained, has obtained credit from the plaintiff under false pretences, or by means of fraud or breach of trust, or has wilfully contracted such debt or liability without having had at the same time a reasonable expectation of being able to pay or discharge the same, or if he shall have made, or caused to be

made, any gift, delivery, or transfer of any property, or shall have charged, removed, or concealed the same with intent to defraud such creditor, or any of his creditors, it shall be lawful for such Resident Magistrate, if he shall think fit, to order that any such party may be committed to the common gaol of the county, district, or place in which the party so summoned is resident, for any period not exceeding forty days.

5. [Imprisonment not to operate as a satisfaction of the debt, or prevent execution against property.]

6. [Messenger of Court may attach all movable property, "excepting the wearing apparel and bedding of such person or his family, and the tools and implements of his trade, to the value of five pounds," money, securities for money, etc., except goods *bona fide* sold by, or to, or hired to, defendant.]

7. [Magistrate may authorize seizure of movable property and securities for money transferred to debtor's wife, children, etc.]

8. [Messenger to hold securities for money. Plaintiff may sue on them.]

9. [Judgments obtained in any Resident Magistrate's Court and not at once executed shall remain effectual for five years.]

10. [Process of execution, and warrants of commitment, may be carried into effect in any county, if endorsed by the clerk of the magistrate's court there.]

11. [Lieutenant-Governor to make regulations for purposes of this law, as to persons who may act as agents, and their fees.]

12. [Persons punishable under this law may be punished under other laws if liable thereto, but no person shall be punished twice for the same offence.]

13. [Law to take effect after promulgation.]

P.R.O., C.O. 180/4.

NATIVE ADMINISTRATION LAW, 1875. [17 Dec. 1875.]
No. 26, 1875.

No. 146. *Law.*—To make better provision for the Administration of Justice among the Native Population of Natal, and for the gradual assimilation of Native Law to the Laws of the Colony.

[Preamble.]

Be It . . . Enacted by the Lieutenant-Governor of the Colony, with the advice and consent of the Legislative Council thereof, as follows:

1. The Ordinance No. 3, 1849, entituled, "Ordinance for

repealing so much of the Ordinance No. 12, 1845, as is inconsistent with a Proclamation issued by the Lieutenant-Governor of the District of Natal, on the 21st day of June 1849, and with the provisions of this Ordinance; and for providing for the better administration of justice among the natives," shall be and the same is hereby repealed, save only and except so far as regards all offences against and all penalties and forfeitures incurred under said Ordinance, and all proceedings taken or commenced before this Law shall come into operation under or in execution of the said Ordinance, all which offences may be prosecuted and all which penalties and forfeitures may be enforced, and all which proceedings shall be as valid to all intents and purposes, and may be continued, executed, and enforced in the same manner as if this Law had not been passed; and save also and except so far as regards all appointments, rules, regulations, and orders made under the said Ordinance, which, until revoked, altered, or amended, and save so far as they are not in conflict with any of the provisions of this Law, shall continue in force and shall be deemed to be rules, regulations, and orders under this Law: Provided, however, that nothing herein contained shall interfere with the authority now exercised by Chiefs or Headmen in any district or districts in which no appointments have been made under the powers conferred by this Law, or until such appointments shall have been made.

2. It shall be lawful for the Lieutenant-Governor for the time being to appoint persons of European descent, who shall be called Administrators of Native Law, as also Native Chiefs or other Native Officers, to preside and exercise authority over and to administer justice among Natives living under Native Law, within such districts as may be hereafter determined, and the Lieutenant-Governor shall have power summarily to remove such Native Chiefs or other Native Officers, so appointed, and to appoint others in their stead.

3. Every Administrator of Native Law, or Native Chief, or other Native Officer so appointed, shall have power to try and decide all civil disputes between native and native in the tribe or community placed under his charge, and within such limits as may from time to time be prescribed by the Lieutenant-Governor, except upon such cases as are hereinafter excepted, or may from time to time be excepted in manner hereinafter provided: Provided, however, that in all cases decided by any Native Chief or other Native Officer, a new trial may be had in conformity with such rules of procedure as may be framed under the provisions of the 10th Section of this Law, before the Administrator of Native Law appointed over the district in which such Native Chief or other Native

Officer resides, and that every such Native Chief or other Native Officer shall within ten days after the decision of any such civil case, communicate to the Administrator of Native Law having jurisdiction, the names of the plaintiff and defendant, the cause of the action, the decision arrived at, and the grounds of such decision; and each such officer is hereby required to record the same.

4. In all such civil cases there shall be an appeal to the Native High Court in this Law specified.

5. All matters and disputes in the nature of civil cases between Natives living under Native Law shall be tried under the provisions of this Law and not otherwise, and according to Native Laws, customs, and usages for the time being prevailing, so far as the same shall not be of a nature to work some manifest injustice, or be repugnant to the settled principles and policy of natural equity; except that all civil cases arising out of transactions in trade, or out of the ownership of or succession to land, shall be adjudicated upon according to the principles laid down by the ordinary Colonial Law in such cases;[1] Provided always, that in the district or districts referred to in the proviso to Section 1 of this Law, all matters and things required to be done and observed by an Administrator of Native Law appointed under this Law, may, and shall be done and observed by an Administrator of Native Law appointed under Ordinance 3, 1849, until appointments under this Law shall have been made therein.

6. Subject to the exceptions in this Law specified, all crimes and offences committed by Natives shall be tried before the ordinary Courts of Law in this Colony in the same manner as if they had been committed by persons of European descent: Provided, however, that the following classes of crime shall be excepted:

(*a*) All crimes and offences of a political character, which shall be tried at the discretion of the Attorney-General, either before the Supreme Court of the Colony or the Native High Court: Provided that the Native High Court shall not have the power of passing sentence of capital punishment.

(*b*) All homicides, assaults, or other injury to the person or property of any Native caused by or arising out of riots by Natives or faction fights between Natives, or in which any tribe or section of a tribe or community of Natives may have taken part, and which in the judgment of the Attorney-General may be more conveniently tried according to the provisions of Native Law.

(*c*) All crimes or offences with respect to which it has been or may hereafter be enacted by any Law that they shall be

[1] Amended by Act 44, 1887, below.

tried by Native Law or before any special Court. And all crimes and offences so excepted, except those for the trial of which special provision has been made, shall be tried by the Native High Court in this Law specified: Provided, always, that it shall be lawful for the Native High Court to remit the trial of any such assault or injury aforesaid to one or more Administrators of Native Law, and such Administrators of Native Law may thereupon try the case subject to an appeal to the Native High Court, whose decision shall in such case be final.

7. There shall be constituted a Court, to be termed the Native High Court, and such High Court shall be presided over by a Judge specially appointed by the Lieutenant-Governor, and such Judge shall sit as sole Judge, or may be assisted, as occasion may require, by Administrators of Native Law, or Native Chiefs, or other Native Officers, as assessors, in manner hereafter to be provided; and such Court shall hear and try all appeal cases from the Courts of the Administrators of Native Law, all civil cases that may be brought before it under the provisions of this Law, and all criminal cases, the trial of which is in this Law specially reserved to such High Court.

8. [Judge to hold office during good behaviour.]

9. All appeals from the Native High Court shall be to a Court of Appeal, which shall be held to be, and shall be a branch of the Supreme Court of the Colony, and shall consist of the Chief Justice or one of the Puisne Judges of the said Supreme Court, the Secretary for Native Affairs for the time being, and the Judge of the Native High Court established under this Law; and the Court so constituted shall hear and determine all appeals that shall be brought before it under the provisions of this Law.

10.[1] The Lieutenant-Governor shall appoint a Board, consisting of the Chief Justice of the Colony for the time being, the Attorney-General, the Secretary for Native Affairs, the Judge of the Native High Court, and any other three persons being Magistrates or Justices of the Peace, of whom five shall form a quorum, and such Board shall from time to time frame rules for procedure and conduct of its own business, and for the procedure and conduct of business in the Court of Appeal, in the Native High Court, in the Courts of the Administrators of Native Law, and in other Courts constituted under this Law, and fix fines, fees, costs, charges, and payment of witnesses' expenses, and shall also frame rules for the appointment and functions of assessors; and shall further determine what class of cases shall be tried in the first instance by the several Courts, and in what cases appeals shall be allowed from the judgment of any of the courts of the Administrators

[1] Repealed by Act 44, 1887, below.

of Native Law, and from the Native High Court, and shall, within a period of two years from the date of the proclamation of this Law, reduce to writing the Native Law as at present administered in this Colony; and shall from time to time, as occasion may require, propose the alteration, amendment, or repeal of any of the provisions of the aforesaid Native Law, and also the establishment of new provisions therein, and the alteration, amendment, or repeal, from time to time, of any such new provisions; and all new provisions so proposed, as well as all alterations or amendments aforesaid, shall, by direction of the Lieutenant-Governor, be submitted to the Legislative Council of the Colony for the approval and sanction thereof by the said Council, to be expressed by Resolution, and all such alterations, amendments, or new provisions so approved and sanctioned, shall, when confirmed by the Lieutenant-Governor and published by proclamation in the *Government Gazette*, have the same force and effect as if they had been inserted in this Law, subject always, however, to disallowance by Her Majesty, signified through one of Her Majesty's Principal Secretaries of State.

11. [Proclamation of Native Law to take place when reduced to writing.]

12. [Fines, etc. under this Law payable to Treasury.]

13.[1] [Governor endowed with authority of a Paramount Chief. He may dismiss lesser Chiefs for certain political offences.]

14. [In case of homicide, assault, or injury from native riot or faction fight, proof of taking part in same shall be sufficient, unless it be satisfactorily proved that accused was not guilty.]

15.[1] [Governor may fine a tribe or community which combines to suppress evidence.]

16. [Short title: "The Native Administration Law, 1875."]

17. [To take effect from date of publication of Her Majesty's confirmation.] *P.R.O., C.O.* 180/4.

TRANSFER OF CAUSES. [11 Nov. 1876.]

No. 13, 1876.

No. 147. *Law.*—To provide for the hearing of all causes now pending before any Court or judicial authority established under the provisions of Ordinance No. 3, of 1849, by transferring the hearing or further hearing of such causes to the Native High Court established under the Native Adminstration Law, 1875.

WHEREAS under the provisions of Ordinance 3 of 1849, entituled [etc.], provision was made for the hearing of appeals

[1] Repealed by Act 44, 1887, below.

in all cases whatsoever, between Natives, which had been tried according to Native Law :

And Whereas it is desirable to facilitate the hearing of all civil causes, matters, and proceedings so brought in appeal, and now pending before any Court or other judicial authority established under the provisions of the above recited Ordinance, or otherwise, by transferring the hearing of such cases so pending to the Native High Court, constituted under " The Native Administration Law, 1875," and for such purpose to confer certain additional powers on the said Native High Court :

It Is Therefore Enacted, by the Lieutenant-Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows :

1. [Transfer to Native High Court of jurisdiction in appeal cases brought under Ordinance 3, 1849, and pending at time of coming into force of Native Administration Law, 1875.]

2. [All such appeal cases referred for hearing to Native High Court.]

3. [In cases already fully heard judgment may be given by Court of Appeal constituted under Ordinance 3, 1849.]

4. [Unfinished cases to be concluded before Native High Court.]

5. [This Law to be construed with Law 26, 1875.]

6. [To take effect after promulgation.]

P.R.O., C.O. 180/5.

NATIVE ADMINISTRATION LAW, 1878. [9 Sept. 1878.]
No. 21, 1878.

No. 148. *Law.*—To confer upon Administrators of Native Law, appointed under Law No. 26 of 1875, certain Increased Jurisdiction within their respective Districts.

[Preamble : It is desirable to confer on Administrators of Native Law certain powers now exercised by Resident Magistrates.]

1. Administrators of Native Law, appointed under provisions of Law No. 26 of 1875, on whom the Lieutenant-Governor shall see fit to confer the power, shall have and exercise summary jurisdiction in the following matters and things over Natives only, residing or being within their respective divisions ; that is to say, in all minor cases of crimes and offences wherein any person may be accused of any such minor crime or offence : Provided always that it shall not be lawful for any Administrator of Native Law to punish any offender in any higher or more severe manner than by

fine not exceeding £10, and imprisonment, with or without hard labour, for a period not exceeding three months, except as to such crimes or offences for the commission of which any higher or more severe punishment, whether by fine or imprisonment, or both, shall be provided, and in which jurisdiction shall be expressly given by any special law; and such Administrators shall exercise the powers conferred upon Justices of the Peace under and by virtue of the provisions of Ordinance No. 6 of 1846, entituled "Ordinance for creating Justices of the Peace within the District of Natal."

2. [Law to commence from date of publication.]

P.R.O., C.O. 180/5.

NATIVE ADMINISTRATION LAW, 1887.

[18 Sept. 1887.]

No. 44, 1887.

No. 149. *Law.*—To amend the Native Administration Law, 1875.

[Preamble.]

1. [Repeal of sections 10, 13, and 15 of Law 26, 1875.]

2. [Amendment of 5th section of Law 26, 1875. In intestacy of unexempted Natives succession to land shall be in accordance with the Native Code.]

3. [Return of criminal cases tried by Administrators of Native Law to be furnished to Secretary for Native Affairs, who may alter, amend, vary, or quash any judgment.]

4. [Constitution of Board,[1] which must frame rules of procedure for Court of Appeal, Native High Court, and Courts of Administrators of Native Law and for other courts constituted under Law 26, 1875.]

5. [Board to have power to propose alteration or repeal of any provisions of Native Law. Board's proposals to be submitted to the Governor in Council, who may adopt or reject or remit to Board for further consideration such proposals. Proposals, when approved of, to be laid before the Legislative Council within fourteen days after approval or after commencement of session. Legislative Council may, within four weeks, by address, object to any of the proposals; and as far as objected to they shall be void. Any alteration suggested in the address may be adopted or rejected by the Governor in Council. If no address be presented, or if the alterations be adopted, the Governor's sanction may, with the advice of the Executive Council, be proclaimed.

Such new provisions so sanctioned and proclaimed in the

[1] The Attorney-General, the Secretary for Native Affairs, the Judge of the Native High Court, and two Magistrates or Justices of the Peace.

Government Gazette shall have effect as if inserted in this Law, but subject to disallowance by Her Majesty.]

6. [If there be reason to believe that there is a combination among any tribe or community of natives to suppress evidence of a homicide, assault, or other injury to person or property by natives, or to conceal the perpetrator, or by passive resistance to encourage a repetition, the Governor may enforce a fine upon such tribe or community.]

7. [Authority of Governor as Paramount Chief. Dismissal or removal of a Chief found guilty of a political offence dangerous to the public peace.]

8. [No judgment to be given against a native upon a liquid document of debt unless it be executed with certain formalities in the presence of a Resident Magistrate or Justice of the Peace.]

9. [Laws Nos. 26, 1875, 21, 1878, and this Law to be read together as one law.]

10. [To take effect on a day to be appointed by the Governor after Her Majesty's assent shall have been published.]

P.R.O., C.O. 180/7.

Annexure.

[Extract from Code of Native Law, passed by the Board appointed by the Governor, under the provisions of Law No. 44 of 1887. Cf. No. 151.]

THE SUPREME CHIEF.

32. The Supreme Chief for the time being exercises in and over all Natives in the Colony of Natal all political power and authority, subject to the provisions of Section 7 of Law 44 of 1887.

33. The Supreme Chief appoints all Chiefs to preside over tribes, or sections of tribes; and also divides existing tribes into two or more parts, or amalgamates tribes or parts of tribes into one tribe, as necessity or the good government of the Natives may, in his opinion, require.

34. The Supreme Chief in Council may remove any Chief found guilty of any political offence, or for incompetency or other just cause, from his position as such Chief, and may also order his removal with his family and property, to another part of the Colony.

35. The Supreme Chief has absolute power to call upon Chiefs, District Headmen, and all other Natives, to supply armed men or levies for the defence of the Colony, and for the suppression of disorder and rebellion within its borders, and may call upon such chiefs, District Headmen, and all other Natives to personally render such military and other service.

36. The Supreme Chief has power to call upon all Natives

to supply labour for public works, or for the general needs of the Colony. This call or command may be transmitted by any person authorised so to do, and each native so called upon is bound to obey such call, and render such service in person, unless lawfully released from such duty.

37. The Supreme Chief, acting in conjunction with the Natal Native Trust,[1] may, when deemed expedient in the general public good, remove any tribe or tribes, or portion thereof, or any native, from any part of the Colony or Location, to any other part of the Colony or Location, upon such terms and conditions and arrangements as he may determine.

38. The orders and directions of the Supreme Chief, or of the Supreme Chief in Council, may be carried into execution by the Secretary for Native Affairs, or by the Administrators of Native Law, or by other officers authorised for the purpose, and in respect of all such acts the various officers so employed shall be regarded as the deputies or representatives of the Supreme Chief, or of the Supreme Chief in Council, as the case may be.

39. The Supreme Chief, in the exercise of the political powers which attach to his office, has authority to punish by fine or imprisonment, or by both, for disobedience of his orders or for disregard of his authority.

40. The Supreme Chief is not subject to the Supreme Court, or to any other court of Law in the Colony of Natal, for, or by reason of, any order or proclamation, or of any other act or matter whatsoever, committed, ordered, permitted, or done either personally or in council.

41. The Supreme Chief is, by virtue of his office, Upper Guardian of all orphans and minors in law.

42. The Supreme Chief has power to regulate and fix from time to time the least number of houses which shall compose a kraal. He may, in his discretion, permit of exceptions to any such general rule in special cases.

Parl. Papers [C. 7013], p. 15.

RESIDENT MAGISTRATES. [14 Aug. 1889.]

No. 22, 1889.[2]

No. 150. *Law.*—For the Establishment and Regulation of Inferior Courts of Justice.

WHEREAS it is expedient to amend and consolidate the

[1] A body consisting in practice of the Governor and the Executive Council, to whom was entrusted the care of native rights as regards the land occupied by them.

[2] Cf. further Act. No. 22 of 1896, "To amend and consolidate the Laws regulating Magistrate's Courts"—not printed in this volume. For "Borough Courts" *vide* documents Nos. 134 and 135.

Laws relating to the Courts, jurisdiction, powers, duties, and divisions of Resident Magistrates:

Be It Therefore Enacted by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. [Ordinances and Laws enumerated in the Schedule repealed.]

2. [Interpretation of Terms.]

3–5. [Creation of Divisions, each with one Central Court and minor or Branch Courts as may be needed. Magistrates to be appointed by the Governor.]

6. [Clerk and Messenger of Court to be appointed by Governor; Deputy Messenger by Magistrate.]

Criminal Jurisdiction.

7. The Magistrates shall have jurisdiction in all cases of crimes and offences committed within their Divisions, with the exception of High Treason, Murder, Culpable Homicide, Rape, and Assault with intent to commit Murder or Rape, or Assault in which a wound or injury is inflicted which has caused serious bodily harm, Arson, Housebreaking with or without intent to commit any crime, Theft of Stock, and any other crime for the trial of which special Courts have been or shall hereafter be appointed: [Provided that jurisdiction of Magistrate shall extend in certain cases to two miles beyond the boundary of his division.]

8. [Offences are triable in any Division through which the person committing such offences may have passed.]

Power of Magistrates as to Punishment.

9. It shall not be lawful for the Magistrates (except in cases where greater jurisdiction may be conferred by special Laws) to sentence or adjudge any person convicted of any crime or offence before their Courts to any higher sentence or punishment than the following, that is to say: To pay a fine of Twenty Pounds, to be imprisoned with or without hard labour for a period of six months, to receive privately in prison a whipping of twenty lashes, or the like number of strokes with a cane or rod. In the discretion of a magistrate imprisonment and whipping may be joined and form part of the same sentence, or any one of the said classes of punishment may be awarded alone; or imprisonment may be awarded in conjunction with a fine as an alternative punishment, or by way of default in the payment of any fine. Where any convicted person has been committed to prison, or has been detained in custody merely for the non-payment of a fine imposed upon him, payment of

the same during any part of his imprisonment shall entitle such person to immediate release from custody.

10. [Females not to be whipped.]

11–20. [Procedure in Criminal Cases: Sentences of a fine of £10 or imprisonment for 3 months, or a whipping of 15 lashes, to be submitted to a Judge of the Supreme Court to be by him approved, varied, or set aside.]

CIVIL JURISDICTION.

21. The Magistrates shall not have jurisdiction or cognizance of any action or proceedings wherein the title to immovable property or to any duty or office is in question and sought to be determined, or of any actions or proceedings to try the validity of any will or other testamentary instrument, or of any action whereby rights in future can be bound; [provided that Magistrates may enquire into the validity of marriages in certain cases.]

22. [Jurisdiction of Magistrate of Durban to extend to cases involving £500.]

23. All Magistrates (Durban excepted) shall have jurisdiction in civil cases (save as between Natives not exempted from Native Law, other than such cases as are hereinafter provided in Section 44 of this Law, and save also as in the 21st Section is mentioned) brought or instituted against any person, firm, company, board, society, or corporation residing or being or carrying on business within their respective Divisions, that is to say:

(*a*) Up to one hundred pounds, where the claim or debt is defined by and is founded upon any bond, bill of exchange, promissory note, good-for, I.O.U., or other liquid document of debt, provided that no action shall be brought to recover the principal sum due under any bond, the security for which consists in whole or in part of immovable property.

(*b*) Up to fifty pounds where the claim is for damages, or where the claim or debt is illiquid in its character and is due upon contract, or for goods sold and delivered, or as balance of account or otherwise.

24–43. [Procedure in Civil Cases.]

POWERS OF MAGISTRATES IN RELATION TO THE CUSTODY OF CHILDREN AND OF UNMARRIED NATIVE WOMEN.

44. [Magistrate shall enquire into complaints made by parents or guardians relative to children and unmarried native women employed as domestic servants or otherwise

and not being permitted to return to their parents. Such complaints to be determined in Magistrate's Court.]

45. [Messenger or Constable may enforce orders to appear.]

APPEALS.

46. [In criminal cases all sentences are subject to appeal to Supreme or to Circuit Court.]

47. [In civil cases sentences are subject to appeal to Supreme or to Circuit Court. No appeal allowed if case involves less amount than £5 exclusive of costs.]

48–50. [Procedure in appeal cases.]

ASSISTANT MAGISTRATES.

51. [Governor may appoint Assistant Magistrates.]

CONSTABLES.

52. [European Constables to be appointed by Governor and vested with the usual powers.]

53. [Natives and Indians may be appointed by Magistrate to act as Constables.]

CONTEMPT OF COURT.

54. [Contempt defined and penalty prescribed.]

LISTS OF CRIMINAL TRIALS.

55. [Monthly returns of criminal cases to be transmitted to the Attorney-General.]

OATHS.

56. [Oaths to be taken by Magistrates and Assistant Magistrates.]

GENERAL PROVISIONS.

57–60. [Proceedings to be *viva voce*, in English, and in open court. Actions against Magistrates and their officers to come before Supreme or Circuit Court. Advocates and Attorneys of the Supreme Court may practise in Magistrate's Courts.]

61. [Framing of rules.]

62. [Law to take effect after 1st January 1890.]

SCHEDULE.

[*Ordinances and Laws repealed.*]

Ordinance No. 16, 1846, entituled "Ordinance for creating Resident Magistrates within the District of Natal."

Ordinance No. 1, 1849, entituled "Ordinance for authorising the taking of certain Fees by the Registrar of the District Court of Natal."

Ordinance No. 5, 1852, entituled "Ordinance for enabling the

Resident Magistrate to grant process for the Arrest of Persons about to leave the District, and the Attachment of Property about to be removed therefrom."

Ordinance No. 8, 1852, entituled "Ordinance to extend the jurisdiction of the Resident Magistrate of the Division or County of Durban, in Civil Cases."

Ordinance No. 12, 1852, entituled "Ordinance for enabling the Lieutenant-Governor to appoint Assistant Resident Magistrates within the District of Natal."

Law No. 6, 1859, entituled "Law to provide for the holding of Branch Courts by the Resident Magistrate."

Law No. 14, 1867, entituled "Law to facilitate the Recovery of Small Debts and Demands within the Colony of Natal."

Law No. 6, 1868, entituled "Law to amend the Law No. 14, 1867, entituled [as above]."

Law No. 10, 1868, entituled "Law to extend jurisdiction of Resident Magistrates of the Colony in Civil Cases."

Law No. 9, 1869, entituled "Law to amend Law No. 14, 1867, entituled [as above]."

P.R.O., CO. 180/8.

NATIVE LAW.

No. 19, 1891.

No. 151. *Law.*—To legalise the Code of Native Law laid before the Legislative Council according to the provisions of Law No. 44, 1887.

[Analysis of Code.]

1–31. [Explanation of terms.]

32–42. [Functions of the Supreme Chief. *Vide* Annexure, p. 254.]

43. The Secretary for Native Affairs . . . is the principal executive officer of the Supreme Chief.

44. [He shall receive petitions from natives and redress grievances.]

45. [He shall, in cases of disputed chieftainship or friction between tribes, institute inquiries for the information of the Supreme Chief.]

46. The Chief in charge of a tribe . . . is a minor deputy of the Supreme Chief and a Judicial Officer . . . during the pleasure of the Supreme Chief. . . .

47–58. [Authority of Chiefs under the Supreme Chief.]

59–65. [Authority of District Headmen responsible to the Chiefs.]

66–78. [Authority of Kraal Headmen as constables.]

78–89. [Land tenure.]

90–298. [Customary native law codified or modified, with details of its administration.]

P.R.O., C.O. 180/8, and *Statutes of Natal*, "Native Law," p. 12.

CHAPTER III.

THE ORANGE FREE STATE.

No. 152. EMIGRANTS NORTH OF THE ORANGE RIVER: PETITION TO COMMISSIONER CLOETE IN NATAL.

RIET RIVER,[1] *28th Sept.* 1843.

SIR,—We, the undersigned Emigrants, address ourselves to you by petition in the name of our fellow-inhabitants of this Colony.

We are convinced in our own minds of the liberal arrangements evinced towards us by Her Majesty the Queen. We are fully inclined and ready to act according to the tenor thereof, and to submit ourselves to H.M.'s authority, on the conditions issued by H.M.'s Secretary of State, Lord Stanley, on the 13th December 1842.

With due deference we wish to call your attention to the following considerations:

The Land which we now occupy as Emigrants, and on which a number of Griquas and Bastards reside, extends from the Bank of the Orange River, Northward to Modder River, at least 20 hours on horse-back, and in its length full 30 hours on horse-back. This piece of Land, we can assure you, was solely inhabited by Bushmen. We doubt not but you are aware that already in former times the Colonists have applied for this ground to the Bushmen Captains, and that those Bushmen Captains have agreed with them and exchanged (or bartered) a large part of the said ground for a considerable number of sheep and cattle. Several of those Colonists are now here as Emigrants. As the land is watered, and the Bushmen do not know how to cultivate it, we were desirous to obtain quiet residences for us and our families. After this arrangement, Dr. Philip has established a Bushman School here, close to the Orange River for the protection of which a small number of Griquas or Bastards was located. Whereupon one after another encroached, and the Bushmen disap-

[1] In the present territory of the O.F.S., to the south-west of Bloemfontein. This letter represented the views of the section of trans-Orange settlers who wished to come under British rule on certain conditions.

peared. While they then called themselves proprietors of the land, and subsequently suffered much from severe seasons and scarcity of water, we were obliged to leave the land, and could not penetrate farther into the Country. And in order to prevent dispute, and not to get into unpleasantness with Government, we were obliged to hire the same ground (however vacant) from them at a high price; aye, even to an amount of more than 78,000 Rix-dollars; and must frequently suffer gross depredations and insults. We rejoice in the favourable decision of Her Majesty that you have been appointed by Her Majesty and invested with power and authority to ward off and remove all disturbances. We firmly trust to your aid and support in these our circumstances, under which we have laboured for successive years. We would remind you that it is not our intention (or desire) to drive the colored people, either Griquas or Bastards, from their possessions or dwellings. Oh no!—We grudge them not the means of support; but it is our wish that measures should be adopted to give us also rights, so that we may in future enjoy a peaceable and Christian life, and be enabled to erect a building on this ground, which we may call a Church or House of God, for the instruction of the adult, and rearing of the young, so that we may cherish the hope that our offspring be not devoted to the desert.

Awaiting your reply, we conclude with a fervent prayer that the Almighty Disposer of the Universe may bless your Mission, and crown the same with the influence of His Spirit and grace.

We have, etc. etc.

(Signed) M. H. OBERHOLZER; G. J. OBERHOLZER; P. J. LOUW; L. A. J. V. D. HEEVER; W. D. JACOBS; D. J. VAN DER MERWE; and 277 others.

The Honble HENRY CLOETE, Esqr., H.M. Commr.

A true Copy.

(Signed) H. CLOETE.

P.R.O., MS. in *C.O.* 48/246.

RECOGNITION OF THE GRIQUA STATE.

[19 Feb. 1846.]

No. 153. *Treaty* between Sir PEREGRINE MAITLAND and ADAM KOK, Chief of the Philippolis Griquas.

The Governor aforesaid and the said Captain Adam Kok, for the purpose of settling the relations between the subjects of Her Majesty resident in the territory and the said Captain, in such a manner as to preserve therein peace and order, by

protecting the quiet and well-disposed, and controlling the turbulent and ill-affected, have consented and agreed to the following articles, which they hereby respectively ratify and confirm:

ARTICLE 1. The absolute dominion of Captain Adam Kok over all the land hitherto received and regarded as belonging to him, or to his people, is hereby unreservedly recognised by the Governor, on the part of Her Majesty the Queen.

2. Without prejudice to this recognised right, Captain Adam Kok engages to make hereby a division of his territory into two portions: one division to consist of land in regard to any part of which it shall not hereafter be competent for Captain Adam Kok, or any of his people, to grant leases, or make sales, or give any right of occupation to any British subject, or generally, to any person of European birth or extraction; and the other division to consist of land which may be let on lease to British subjects, and all others indifferently; all leases to British subjects, however, to be made in the manner and under the conditions hereinafter referred to.

3. Persons who are by the last preceding article prohibited from hiring or purchasing lands in the first or reserved division of the Griqua territory, may, with the express permission of the Colonial Government, but not otherwise, and then only for the purpose of religious teaching, or that of trade or business, receive leases of houses and buildings, or of building-erven, situated in the said division.

4. Captain Adam Kok binds himself, for the purpose of this treaty, to recognise as British subjects all persons of British or Colonial birth or extraction, whether born within the British dominions or not.

5. That portion or division of the Griqua territory to be ultimately reserved for the Griqua nation, and in regard to which the certain persons hereinbefore described shall not (except as before is excepted) be allowed to purchase or obtain leases of, or acquire any lands whatever—shall be limited as follows, that is to say: From David's Grave, at the confluence of the Riet and Modder Rivers; thence along the Riet River to where Krom Elbow Spruit falls into the said Riet River; thence [along] Krom Elbow Spruit to where Van Zyl's Spruit falls into it; thence up Van Zyl's Spruit to its source, from between the Pram Bergen; thence along a direct line to be drawn from the neck of Pram Bergen at the source of Van Zyl's Spruit to Braay Paal, which line, running generally east, holds the summit of a ridge extending from the said neck to within about a mile from Braay Paal; thence from Braay Paal, the boundary between Captain Adam Kok and the land occupied by the Chief Le Pui, to the junction of that boundary

with Bosjes Spruit; thence along Bosjes Spruit to where the same falls into the Orange River; thence along the said Orange River as far as Ramah; and thence in a direct line to David's Grave aforesaid.

6. The portion or division of the Griqua territory which may as aforesaid be leased to British subjects, and all others indifferently, shall consist of so much of the hitherto recognised Griqua territory as is not comprised within the limits in the last preceding article set forth.

7. From and out of the last-mentioned division of territory, the lands heretofore enjoyed by the Korannas, under the Chief Goliat, and by the missionary station at Bethany, shall be considered as excepted, which lands shall be preserved inviolate for the said Chief and station.

8. It shall be the duty of the officer styled British Resident amongst the native tribes to the north-east of the Colony, as lately appointed by the said Governor, to exercise constant vigilance in regard to the state and condition of the Griqua territory, so as to secure the tranquillity thereof, to represent Her Majesty's Government upon the spot, to enforce order amongst all British subjects resident in any part of the Griqua territory, to prevent or punish all crimes or injuries meditated or committed by any such subjects, and generally to inquire into, and determine, all disputes which may arise between emigrants and Griquas, so as thereby to maintain peace, and remove all occasion of mutual apprehension and distrust.

9. In order as much as possible to co-operate with the Colonial Government in carrying out such measures as shall be necessary for the preservation of law and order amongst British subjects and all others resident in the territory of Captain Adam Kok, the following articles and provisions are consented to and agreed upon:

10. The British Resident shall at all times be invested by the Governor with a commission under the Act of Parliament, 5 & 6 William the 4th, cap. 57, entitled "An Act for the prevention and punishment of offences committed by Her Majesty's subjects within certain territories adjacent to the Colony of the Cape of Good Hope," empowering such Resident to arrest and send into the Colony for trial any British subjects who shall, within the Griqua territory, be guilty of any crime or offence contrary to the provisions of the said Act.

11. Besides possessing the powers belonging to and invested in a magistrate under the said Act, the contracting parties to this treaty do hereby, both and each of them, constitute and appoint the British Resident for the time being to be a tribunal, exercising and to exercise, over the subjects of Her Britannic Majesty residing and being within the Griqua

territory, the certain summary criminal and civil jurisdiction hereinafter defined; it being expressly consented, agreed, and declared, that whatever shall be adjudged, done, or transacted by the said Resident, within the scope and limits of the powers hereby conferred upon him, shall be as valid and effectual, to all intents and purposes, as if the same had been adjudged, done, or transacted by the said Captain Adam Kok.

12. The British Resident shall have, in regard to crimes and offences committed by British subjects in any part of the Griqua territory, the like jurisdiction in all respects as a Resident Magistrate of the Colony has under, and by virtue of, the Ordinance No. 33 of 1827 in regard to crimes and offences committed within the district or place for which such Resident Magistrate shall have been appointed.

13. The British Resident may, in the exercise of the summary jurisdiction in the last preceding section mentioned, sentence any offender, when convicted, to be punished by fine not exceeding 10*l*., or by imprisonment, with or without hard labour, for any period not exceeding six months, or by such fine and such imprisonment together, as to such Resident shall seem meet.

14. All fines imposed by the said British Resident shall, in case of non-payment, be levied by distress and sale of the offender's property, and upon recovery, shall be applied in manner and form as the quitrents hereinafter mentioned.

15. The British Resident shall, in regard to the manner of summoning or arresting any person charged with any crime or offence which shall appear to come within his summary jurisdiction, and to the summoning and compelling the attendance of witnesses, and the manner of proceeding in the hearing of the case, and the place at which any sentence of imprisonment shall be carried into effect, and generally, in regard to the exercise of his said jurisdiction, act according to, and carefully observe, all such rules and regulations as shall be provided for, or prescribed to, him by the Governor of the Cape of Good Hope, which rules and orders the said Captain Adam Kok engages to ratify, confirm, and establish as law within his territory.

16. The contracting parties respectively hereby grant to the British Resident full power and authority to appoint a messenger for his court, a gaoler, and such constables or other officers as may be necessary for the due execution of the judicial functions hereby conferred upon him.

17. Captain Adam Kok engages to co-operate with the British Resident whenever so requested by him, and to give to the said Resident every support in his power in the discharge

of the duties belonging to the office of such Resident. And should it so happen that part or the whole of a spot of ground which the British Resident may hereafter select for the purpose of erecting a residence shall fall within the territory of Captain Adam Kok, the said Captain hereby binds himself to allow possession to be taken and kept of such ground for the above-mentioned purpose, as long as it shall be required for the same.

18. Any act or proceeding injurious to person or property which would be a crime or offence if committed by a British subject against a Griqua, shall be deemed to be a crime or offence when committed by a Griqua against a British subject, —and Captain Adam Kok hereby engages to have any Griqua so offending tried and punished.

19. Captain Adam Kok engages, upon complaint made to him, to cause any Griqua accused upon reasonable grounds of having committed any such crime or offence, to be secured for trial,—and the British Resident is hereby authorised to require Captain Adam Kok to fulfil this stipulation.

20. The British Resident shall be entitled to attend and be present at the trial by Captain Adam Kok, or such other person as may by him be deputed for the purpose, of any Griqua accused of any crime or offence committed against any British subject; but the said Resident will not interfere with the proceedings at such trial, otherwise than by offering such suggestions touching the right and proper conduct of the same as may seem to him to be fit and useful.

21. Whenever any Griqua shall be convicted of any such crime or offence as aforesaid, such punishment shall be awarded as Captain Adam Kok, after consultation with the British Resident (should he be at or near the spot), shall deem to be just and proper under the circumstances of the case.

22. All questions or disputes of a civil nature in which any Griqua shall bring a claim or demand against any British subject resident in the Griqua territory, shall be heard and determined by the British Resident, according to right and justice; and the contracting parties respectively hereby authorise and empower the said Resident so to do, and to enforce any decision by which he shall adjudge any British subject to pay or deliver over to any Griqua, any money or other thing, by distress and sale of the property of the person making default.

23. The British Resident shall, in regard to the manner of summoning any British subject to answer any such claim or demand, and to the summoning and compelling the attendance of witnesses, and to the manner of proceeding in the hearing of the case, to the mode of carrying his judgments into execution, and generally, in regard to the exercise of the civil jurisdiction

hereby conferred upon him, act according to, and carefully observe, all such rules and regulations as shall be provided for, or prescribed to, him by the Governor aforesaid, which rules and regulations the said Captain Adam Kok engages to ratify, confirm, and establish as law within his territory.

24. All questions and disputes of a civil nature, in which any British subject shall bring any claim or demand against any Griqua, shall be heard and determined by Captain Adam Kok, according to right and justice, who engages to obtain redress for any British subject injured.

25. It is understood and agreed that all questions relating to the title to land, or to its occupation, whether raised by Griqua subjects against British subjects, or by British subjects against Griqua subjects,—shall abide the determination of the British Resident. But in all such cases, Captain Adam Kok, or any person by him deputed, may be present and assist at the investigation of any such case.

26. Any British subject having any such claim or demand as aforesaid, may either repair in the first instance to Captain Adam Kok, or to the British Resident, and the latter shall be entitled, should he see cause so to do, to desire from Captain Adam Kok a trial of the case, and to be present at such trial, but not, however, to interfere thereat, beyond the mode hereinbefore provided in regard to criminal cases.

27. Captain Adam Kok shall cause the British Resident to be informed of the time and place of hearing any case, criminal or civil, in which any British subject shall be the complainant, and any Griqua the party complained against, and in like manner, the British Resident shall cause Captain Adam Kok to be informed of the time and place of hearing any case in which any Griqua shall be the complainant, and any British subject the party complained against; in order that Captain Adam Kok, or any other person by him deputed, may be present and assisting at the trial.

28. For the purpose of this treaty, it is consented and agreed by the contracting parties, that the term Griqua shall comprehend and embrace any person who is, by birth or residence, under the authority of Captain Adam Kok.

29. The British Resident aforesaid shall be charged with the duty of settling, in conjunction with the parties interested, the conditions and duration (not exceeding forty years) of all intended leases to be granted to British subjects, of any lands situated in the territory in Article No. 6, and shall also be bound to preserve a counterpart of every such lease, and to transmit without delay, both to the Colonial Government and the Chief of the Griquas, an abstract, showing the particulars of the same. But no such lease shall be capable of being assigned—

nor shall the land leased be capable of being sub-let without the consent of the said Resident.

30. Upon every such last-mentioned lease shall be reserved a certain annual quitrent, which quitrent shall be payable to the British Resident, who shall be furnished by Captain Adam Kok with all necessary powers for recovering the same.

31. One-half the amount of all such quitrents shall annually be handed over to Captain Adam Kok, who, as often as by Griqua law or custom any of his subjects shall, as being the owner of any of the lands out of which any part of such quitrent shall have arisen, be entitled to receive any proportion of the amount so handed over, shall satisfy the demand of his said subjects according to their rights.

32. The remaining half of the said quitrents shall be retained by the British Resident, and be accounted for by him to the Colonial Government, and shall be applied to defray, as far as it will go, the expense of his establishment, together with that of a certain protective force which it is intended to form and place under his control, for the suppression of violence and crime, and maintenance of his just authority.

33. In regard to British subjects now holding lands in any part of the Griqua territory, such of them as shall not be found by the Colonial Government to have forfeited, by some act or acts of conspicuous criminality, either with respect to the Griqua nation or to the royal authority of Her Majesty the Queen (of the nature of which acts the Governor will judge), all claim to favourable consideration shall, under the conditions in the next succeeding article mentioned, be permitted peaceably to occupy their respective holdings.

34. The conditions of such occupation as is in the last preceding article referred to are as follows:

1st. That the claimant or the parties under whom he derives his rights shall have originally acquired title by a just and *bona fide* contract.

2ndly. That the claimant shall have already satisfied, or be prepared to satisfy, the full consideration stipulated for in such contract.

3rdly. That the claimant shall profess true allegiance to Her Majesty the Queen; and

4thly. That the claimant shall undertake to pay to the British Resident a certain annual assessment as hereinafter mentioned.

35. The holdings to be subject to the said assessment shall be classified in three classes, according to certain rules of valuation to be in that behalf prescribed by the Colonial Government for the British Resident; and the assessment in

regard to the said three classes shall respectively be 3*l.*, 2*l.*, and 1*l.* per annum.

36. The amount of such assessment shall annually be divided in like manner, precisely as is, by the 31st and 32nd articles, provided in regard to the quitrents therein mentioned.

37. Upon the expiration, from time to time, of existing leases of lands lying within the limits in article No. 5 mentioned and set forth, it shall not be competent for Captain Adam Kok, or any of his subjects, again to lease the said land to any British subject, or generally to any person of European birth or extraction; but such land, like all others within the said limits, shall be thenceforth reserved for the exclusive use and occupation of the Griqua people.

38. Inasmuch as the alienation of the absolute dominion of landed property by Griqua subjects is in direct opposition to the well-known laws and customs of the Griqua people, the cases, if any, in which British subjects shall have purchased, or shall purport to have purchased, the absolute dominion of any landed property in any part of the Griqua territory, shall be deemed to be cases of a hiring of such property for a term of forty years from the commencement of the occupation; and any leases or agreements of that nature heretofore made, which purport to be made for a longer term than forty years, shall be deemed to have been originally made for that term, and no longer.

39. Captain Adam Kok upon his part engages, as often as he shall be so required by the British Resident, to arm, and place under the direction of that officer, such a number of his subjects, not exceeding 300 men, as shall be demanded by the requisition of such officer; which force shall remain at the disposal, and act under the orders, of the said officer, so long as he shall deem necessary, for the purpose of assisting to preserve peace, and repress violence and outrage, either in the territory of Captain Adam Kok or in the territory of any neighbouring tribe or nation, which tribe or nation shall itself be bound by treaty to furnish in the same manner, and according to its strength, a contingent force of the same character.

40. The Colonial Government, besides organising such a force under the command of the British Resident as shall be considered necessary, will hold itself at all times prepared, should an exigency arise, to march troops for the purpose of crushing any attempt upon the part of any portion of Her Majesty's subjects to contravene by violence any of these regulations, or resist the due authority of law, and of protecting the Griqua people while acting justly and inoffensively in the full enjoyment of their rights, their privileges, and their lands.

This done at the Government House, in Cape Town, this

Fifth Day of February, in the Year of Our Lord One Thousand Eight Hundred and Forty-six.

(Signed) P. MAITLAND. (L.S.)

Signed and sealed in our presence :

(Signed) JOHN MONTAGU, *Secretary to Government.*
HARRY RIVERS, *Treasurer-General.*
W. PORTER, *Attorney-General.*
W. FIELD, *Collector of H.M. Customs.*

This done at Philippolis, this Nineteenth Day of February, in the Year of Our Lord One Thousand Eight Hundred and Forty-six.

(Signed) ADAM KOK, *Kapitein.* (A.K.)

Signed and sealed in our presence :

(Signed) HENDRIK HENDRIKZE, *Secretarius.*
W. Y. THOMSON, *Missionary.* J. C. WRIGHT, [and others.]

Parl. Papers, S. Africa, C.O. (42), p. 86.

PREPARATIONS FOR ANNEXING TERRITORY.

No. 154. *Agreement* between Governor Sir H. G. SMITH, Bart., and the Basuto Chief MOSHESH. [27 Jan. 1848.]

His Excellency the High Commissioner and the great Chief Moshesh having met this day, pursuant to appointment, for the purpose of discussing the matter of the territory occupied by British emigrants, part of the possessions of the great Chief aforesaid, as well as for the purpose of considering the affairs of Southern Africa, north of the Great Orange River, generally ; the great Chief fully concurred in the proposition of his Excellency, that peace, harmony, and tranquillity could neither be established nor maintained without the existence of some great and paramount authority. For the purpose therefore of effecting this object, and at the same time of maintaining inviolate the hereditary rights of the Chiefs, and of effectually restraining the Boers within the limits, and upon the locations they now possess, and that magistrates might be appointed, and surveyors employed to ensure the same, his Excellency proposed the Proclamation of the Sovereignty of the Queen of England throughout all the territories over which Her Majesty's subjects have spread themselves, partly by purchase, partly on toleration, and frequently without either. Of the expediency of this great measure—in which the Chiefs previously conferred with, viz., Maroka, Adam Kok, and various other minor Chiefs, had fully concurred—the Chief Moshesh most fully approved, and strongly expressed himself that such paramount authority was absolutely necessary for the purpose

of maintaining, in strict alliance with Her Majesty of England, that harmony and unanimity which it had been his wish to preserve, and his desire to effect. His Excellency then adverted to the treaty entered into with Sir Peregrine Maitland in 1845, and the receipt of a part of the quitrents as therein established; upon which the Chief immediately said, he had not met the High Commissioner on any pecuniary point, which he begged to waive entirely; but that as he had ever been a strong and staunch friend to such of Her Majesty's subjects as had emigrated and desired to locate upon such territories; so all he hoped was, that the measure of policy the High Commissioner proposed to adopt, to ensure harmony and tranquillity between Her Majesty's and his own subjects would be carried out. Upon this, in the name of Her Majesty, his Excellency highly complimented and thanked the great Chief Moshesh, stating that he was unable to express himself as to which he admired most, his feelings as a man, or his magnanimity as a Chief. The High Commissioner then proposed that in honour of this day's cemented alliance, he may be permitted, in the name of Her Majesty, to forward annually from Cape Town, such articles of British manufacture as he hoped would be acceptable to the Chief.

And thus ended the conference as mutually satisfactory to the high contracting parties, as it is hoped its results may be permanent and satisfactory.

Given under our hands this Twenty-seventh Day of January 1848.

(Signed) H. G. SMITH.
his
MOSHESH, ×
mark.

WINBURG, *27th January* 1848.

Witnesses:
(Signed) JOHN GARVOCK.
C. CASALIS.

Parl. Papers, S. Africa, C.O. (42), 1884, p. 91.

ESTABLISHMENT OF THE QUEEN'S SOVEREIGNTY OVER THE TERRITORY BETWEEN THE ORANGE AND THE VAAL RIVERS. [3 Feb. 1848.]

No. 155. *Proclamation.* — By His Excellency Lieut.-General Sir HENRY GEORGE WAKELYN SMITH, Baronet [etc.], Administrator of the Government of the Settlement of the Cape of Good Hope [etc.], and Her Majesty's High Commissioner [etc.].

WHEREAS, as Her Majesty's High Commissioner for the

settlement and adjustment of the boundaries, and an amicable and clear understanding of the affairs and the relationship with the chiefs, tribes, and people of the countries adjacent to the colony of the Cape of Good Hope, I have placed upon a permanent foundation the preservation of peace, harmony, mutual confidence, and the attainment of civilization on the eastern boundary, and have personally visited the countries upon the north and north-eastern boundary of the colony, on the line leading to Her Majesty's settlement of Natal, annexed to the colony of the Cape of Good Hope, for the purpose of obtaining information from all the various parties concerned, upon matters so involving the interests, not only of the native chiefs of the countries into which many of Her Majesty's legal subjects have established themselves, but also of those subjects themselves; and have personally conferred with the leading chiefs of the neighbouring tribes, and with many of the meritorious and devout missionaries, as well as with the influential and thinking men of Her Majesty's subjects located as aforesaid; and have received several addresses very numerously signed by the inhabitants, between the Orange, the Modder, and Riet rivers, as well as from those around Bloem Fontein, and from the Caledon river, and also those from the neighbourhood, and at Wenburg.

Now, therefore, by virtue of the several powers and authorities in me vested, and subject to Her royal confirmation,—I do hereby proclaim, declare, and make known, the sovereignty of Her Majesty the Queen of England over the territories north of the Great Orange river, including the countries of Moshesh, Moroko, Molitsani, Sinkonyala, Adam Kok, Gert Taaybosch, and other minor chiefs, so far north as to the Vaal river, and east to the Drakensberg, or Quathlamba mountains; with no desire or inclination whatever on the part of Her Majesty to extend or increase her dominions, or to deprive the chiefs and their people of the hereditary rights acknowledged and recognized by all civilized nations of the world, as appertaining to the Nomadic races of the earth; but on the contrary, with the sole view of establishing an amicable relationship with these chiefs, of upholding them in their hereditary rights, and protecting them from any future aggression, or location of Her Majesty's subjects, as well as of providing for their rule, and the maintenance of good order, and obedience to Her Majesty's laws and commands on the part of those of the Queen's subjects, who, having abandoned the land of their fathers, have located themselves within the territories aforesaid: and I hereby proclaim, that all the chiefs of the territories aforesaid are under the sovereignty of Her Majesty, as the paramount and exclusive authority in all international disputes as to territory, or in any

case whatever tending to interrupt the general peace and harmony of South Africa: but that their authority over their own tribes shall be maintained, as well as their own laws, according to their customs and usages.

And I hereby proclaim that all Her Majesty's subjects within the territories aforesaid, shall be governed by the laws, ordinances, and proclamations framed, and to be framed, for Her Majesty's colony of the Cape of Good Hope, and that they shall henceforth be in full possession of the rights of citizens of the said colony, and that municipalities, corporations, and other privileges shall be granted to them, as their increase and improvement require.

And I do hereby proclaim that Her Majesty's Government assumes the responsibility to the chiefs, as regards their just indemnification for all lands now occupied by these Her Majesty's subjects, upon the latter paying an annual quitrent, according to a schedule which shall be established by a Commission appointed for the purpose, and upon the condition that every able-bodied man turns out in the defence of Her Majesty, and her allies, either with arms, or as special constables, as may be required by the British Resident and Magistrate.

The appropriation of these quitrents shall be: Firstly, for the fair and honest remuneration and indemnification of the native chiefs, in lieu of any and all contracts or leases entered into by Her Majesty's subjects, so that no breach of faith shall exist, in the faith of an agreement entered into by Her Majesty's High Commissioner with the great chiefs Moshesh, Moroko, Sinkonyala, Adam Kok, and others. Secondly, for the defraying their own expenses of their own government, viz.,—the British Resident at Bloem Fontein, Magistrates, etc., as shall hereafter be appointed, with Sheriff's officers, constables, etc., and Field-Commandants and Field-Cornets, etc., as the full organization of a government may require, and for bearing the expense of sending into Colesberg all criminal cases which must be tried before the judges.

And I do hereby proclaim and declare, that every trader or other individual trafficking, or engaged in commerce, within the territories aforesaid, shall pay an annual license of £50, in the like manner as the traders in British Kaffraria; these licenses to be obtained from any Commissioner within or without the colony, who are hereby authorized to grant the same; and all sums which thus accrue, and whatever surplus remains of the sums collected as quitrents, after the payment of the indemnification to the native chiefs for the lands, and the expense of the government aforesaid, shall be vested in a fund, under the control of a Commission, composed of members of the Dutch Reformed Church, appointed by Her Majesty's High

Commissioner, for the erection of churches on such spots as may be selected and sanctioned, and for the provision of ministers, and hereafter for the erection of schools and for their maintenance, for the improvement of roads, etc., all for the exclusive benefit of the population north of the Orange river. And whatever sums may be subscribed for the erection of any church or churches as Her Majesty's High Commissioner, I pledge myself to advance on loan an equal sum.

And I hereby proclaim all the missionary stations within the territories aforesaid, to be under the special protection of Her Majesty the Queen of England.

And I hereby proclaim and declare, that this sovereignty and paramount authority is for the sole protection and preservation of the just and hereditary rights of all the native chiefs as aforesaid, and for the rule and government of Her Majesty's subjects, their interests and welfare. That no benefit whatever accrues, or is desired by Her Majesty, beyond the satisfaction Her Majesty the Queen will ever feel in the maintenance of a just peace, and the improvement of the condition of her people, and in their advancement in the blessings of Christianity, civilization, and those habits of industry and honesty which will elevate and civilize the barbarian, and support and uphold the Christian community, and thus will that peace be established which Her Majesty desires to effect, and has the power and determination to maintain.

GOD SAVE THE QUEEN.

Given under my hand, and the seal of the Colony of the Cape of Good Hope, on the Great Tugela river, this 3rd day of February 1848.

(Signed) H. G. SMITH.

By order of His Excellency, Her Majesty's High Commissioner.

(Signed) RICHARD SOUTHEY,
Secretary to High Commissioner.

Parl. Papers, C. of G. Hope, presented July 1848, p. 63.

PROVISIONAL GOVERNMENT IN THE ORANGE RIVER SOVEREIGNTY.

No. 156. *Extract of Proclamation* by Sir HENRY G. W. SMITH. [8 March 1848].

* * *

The British resident, Major Warden, in the absence of the High Commissioner, is paramount, and is the President-in-Chief of all Boards or Commissions, which may be formed for all and whatever purposes.

The post of Major Warden, as British resident and magistrate, will be Bloem Fontein. A civil commissioner and resident magistrate, combined in one person, will be stationed at Wenberg, and one in the most eligible and populous neighbourhood of the Caledon river. These civil commissioners and magistrates will have a clerk and two constables attached to each, to issue and serve summonses, and to conduct criminals to Colesberg. No person of colour is ever to be employed in conveying summonses, or in the execution of any point of law, nor are any of the military at present stationed at Bloem Fontein to be employed in matters of a civil nature.

The civil commissioners and magistrates will collect the quitrents of their respective districts, receive the amounts to be derived from licenses to traders, fines, and monies, which may arise as the revenue of Her Majesty's subjects beyond the Orange river; and will transmit to the High Commissioner quarterly accounts of such receipts, and the disposal thereof, for publication in the English and Dutch languages, that all may be acquainted with the state of the funds.

The magistrates will keep a daily record of their proceedings, cases, and decisions, and every three months a summary of the whole will be transmitted by the British resident and other magistrates direct to the High Commissioner, who will submit them to the chief justice, or one of the puisne judges, for examination and comment, in order to ensure a correct and uniform administration of justice.

* * *

A Land Commission will be formed, consisting of the British resident, as President-in-Chief; the civil commissioner and magistrate of the district in which the board is held, who will preside in the absence of the British resident; two land surveyors; and one burgher of the district elected by the people, as members; and the clerk to the magistrate of the district, in which the Commission are employed, will act as clerk to the Land Commission.

The first duty of this Commission is to divide the territory under the sovereignty of Her Majesty, between the Great Orange and Vaal rivers, into three districts; the first to be designated that of Bloem Fontein, the second that of the Caledon river, the third that of Wenburg.

Each of these districts to be divided into field-commandantships and field-cornetcies, the selection of persons for these duties to be made by the majority of the people over whom they are to exercise authority.

The Commission will then register each farm, take the census of the population, record the size of the farm, and, according to the value of the land, fix the amount of quit-

rent from £2 to £8 per annum, which are to be regarded as the minimum and maximum rates.

* * *

Parl. Papers, C. of G. Hope, presented July 1848, p. 65.

No. 157. REGULATIONS FOR THE GOVERNMENT OF THE ORANGE RIVER SOVEREIGNTY.

[Some of the farmers residing in the northern half of the Sovereignty asked and obtained assistance from the Emigrants to the north of the Vaal. They expelled the British officials from the territory, but their commando was defeated by a British force, marching from the Cape, at Boomplaats on 29th August 1848. Most of the men then fled across the Vaal, and the officials were reinstated.]

PROCLAMATION by His Excellency Lieut.-General Sir HENRY GEORGE WAKELYN SMITH, etc. etc. [14 March 1849.]

WHEREAS by my Proclamation bearing date the 3rd of February 1848, I did, amongst other things, proclaim and make known the sovereignty of Her Majesty the Queen of England over certain territories north of the Great Orange River: And whereas it has become necessary to make provision for the better regulation of the said territories: Now, therefore, I do hereby proclaim, declare, and make known, that the series of Regulations hereto annexed shall, from and after the 31st day of March 1849, be of force within the said territories, and that from thenceforth anything in my Proclamations of the 3rd of February 1848 and the 8th of March 1848 respectively; and anything in any other former Proclamation, repugnant to, or inconsistent with, any of the said Regulations, shall be revoked, and the same is hereby revoked accordingly.

GOD SAVE THE QUEEN.

Given under my hand and seal of the settlement of the Cape of Good Hope, at Cape Town, this 14th day of March 1849.

(Signed) H. G. SMITH.

By command of His Excellency the High Commissioner,

(Signed) RICHARD SOUTHEY,

Secretary to the High Commissioner.

REGULATIONS FOR THE FUTURE GOVERNMENT OF THE SOVEREIGNTY BEYOND THE ORANGE RIVER.

Name, Extent, and Mode of Government.

1. The territory between the Orange River, the Vaal River, and the Draakberg Mountains, over which Her Majesty's Sovereignty is proclaimed, shall be designated the "Orange River Sovereignty."

2. It is divided into four magistracies or districts, over which Major Warden, the British Resident, is the paramount authority, under his Excellency the High Commissioner:

(1) The district of Griqua Land, of which Bloem Fontein and "the Queen's Fort" is the seat of magistracy, and to which Charles Urquhart Stuart, Esq., is the appointed magistrate.
(2) The district of Winburg, of which the town of Winburg is the seat of magistracy, and of which Mr. Biddulph is the magistrate.
(3) The district of Vaal River, of which the new town of Vreeddorp is the seat of magistracy, and Mr. Paul Bester the magistrate.
(4) The district of Caledon River, of which Smithfield is the seat of magistracy, and Mr. Vowe the magistrate.

3. The Orange River Sovereignty will be governed by Her Majesty's High Commissioner, aided by a local Council, to consist of the British Resident-in-Chief, the four other magistrates, and eight councillors, two for each district, to be nominated by his Excellency, from and out of the landowners of such district holding their lands on quitrent.

4. The mode of calling together, adjourning, or dissolving the Council will be regulated by the High Commissioner, and hereafter announced.

5. Every unofficial councillor shall serve for a term of three years, unless the Council shall be sooner dissolved, or on his own resignation or incapacity.

6. The British Resident will be the President of the Council, which will meet with open doors, once a year, at Bloem Fontein, and oftener, if summoned by order of the High Commissioner, for the consideration of such matters as may be suggested by his Excellency the High Commissioner, or proposed by the President, or any member, having for their object the benefit of all classes of people within the sovereignty.

7. The authority of the Council as to the framing of laws shall extend over all persons within the Orange River Sovereignty, not belonging to the tribe or people of any native chief or captain within the sovereignty, in regard to acts done, or matters arising, anywhere within the sovereignty, and over all persons whomsoever, in regard to acts done or matters arising within any of those parts of the said sovereignty not belonging to any native chief or people. But in order that the reasonable and rightful authority of the native chiefs over their own people should be upheld, the Council will not be competent to entertain any project by which the exclusive

jurisdiction of any chief over his own people, in regard to crimes or claims arising within such chief's land, and charged or made against any of this people, should be taken away or abridged, but, on the contrary, such exclusive jurisdiction, and the maintenance, in regard to the determination of such crimes or claims, of all native laws and usages not repugnant to decency, humanity, or natural religion, is hereby guaranteed.

8. Every unofficial member of Council, who may desire it, will receive ten shillings a day during the sitting of Council, as well as ten shillings for every forty miles he shall have to travel to and from the place of meeting.

9. All measures resolved by a majority of votes in the Council will be submitted through the President to his Excellency the High Commissioner, for his consideration and sanction: but no legislative measure shall have the force of law until the sanction of his Excellency the High Commissioner shall be signified by a notice in the *Government Gazette* of the Colony of the Cape of Good Hope. The High Commissioner may, in such notice, fix whatever time he thinks proper for the bringing into operation of any such measure; and if no other time be fixed, then the measure shall come into operation at the expiration of thirty-one clear days next after the day on which such notice shall be first published.

10. The High Commissioner will cause a correct statement of the receipts and expenditure of all public moneys raised within the sovereignty for the past year, to be laid before the Council at every annual meeting, as well as an estimate of the probable revenue and expenditure for the year next ensuing. It shall be competent for the Council to make to the High Commissioner any representations upon the subject which the members shall think desirable or likely to improve the administration of the district. The British Resident shall be the Treasurer-General of the sovereignty.

11. Considering the nature of the country and the pursuits of the inhabitants, it is intended that the Council should combine with its other functions those of an Agricultural Society, and mature and propose to the High Commissioner plans for the advancement of agriculture,—for promoting the planting of trees,—for the construction of dams, many of which have been already completed in Griqua Land, with great labour, and consequent advantage to the proprietors. In fine, it is meant that the people, acting through this Council, should devise measures calculated to advance their interests, civil, social, and religious, and minor obstacles shall not be suffered either to prevent or impede the accomplishment of any good object which they shall recommend.

Laws and Courts of Justice.

12. Subject to future alteration by the High Commissioner, with the advice and consent of the Council, all persons within the Orange River district, not belonging to the tribe or people of any native chief within such district, shall be subject to the provisions of the Roman-Dutch law, as received and administered in the Courts of the Cape Colony; but no local ordinance or enactment of the Cape Colony shall be in force in the Orange River district, unless expressly re-enacted for such district. And persons, although belonging to native tribes and chiefs, shall be subject to the same law in regard to acts done or matters arising within those parts of the district not belonging to any native chief or people.

13. Every native chief and people shall be governed and regulated by their own laws and usages, in regard to all crimes committed by and questions arising between any of such people, within the peculiar territory allotted to such chief and people, so long as such laws and usages are repugnant neither to decency, humanity, nor natural religion,—and people belonging to one native chief, committing crimes or contracting obligations in the territory belonging to any other native chief, shall be dealt with according to the native usage heretofore in force in such cases, subject always to the right of interference by the British Resident, in order to prevent irregularity or injustice.

14. Each of the four magistrates already mentioned shall hold a Court, and shall possess jurisdiction in all civil cases, in which the defendants, being resident within the magistracy of such magistrate, shall be persons subject, under the 12th of these Regulations, in regard to the determination of such case, to the provisions of the Roman-Dutch law, and in which the sum or matter in dispute shall not exceed the value of 500 rds.

15. Every such magistrate's court shall possess jurisdiction in all cases of crimes and offences, wherein any person, subject under the 12th of these Regulations to the Roman-Dutch law, as contradistinguished to native law, in regard to such crime or offence,—shall be accused of any crime or offence committed within the magistracy of such magistrate; but no such magistrate shall punish any offender in any higher or more severe manner than by a fine not exceeding 300 rds., and imprisonment with or without hard labour, for not more than four months; and such magistrate may, either with imprisonment or without, adjudge the offender to receive corporal punishment in any number of lashes not exceeding twenty-five.

16. The magistrates aforesaid, in the exercise of their

jurisdiction both civil and criminal, shall conform themselves to the rules for the time being in force in regard to the courts of resident magistrate of the Cape Colony, with such alterations and adaptations as the High Commissioner shall sanction and approve.

17. For the trial of any person subject under these regulations to the Roman-Dutch law, in regard to such crime or offence, who shall be accused of any crime or offence committed within the Orange River sovereignty, which from its nature or circumstances shall be of too aggravated a character to be dealt with under the summary jurisdiction of the magistrate, a court, to consist of not less than three out of the four magistrates, shall be holden at such times and places and before such magistrates as the British Resident shall appoint; and such court shall be competent to adjudge any such punishment as may lawfully be adjudged by a Circuit Court of the Colony of the Cape of Good Hope,—subject, nevertheless, to the two following restrictions: first, that in regard to any person who shall, as a British subject, be liable, under the Act 6 & 7 Will. IV., chap. 57, to be tried by the courts of the said colony, for the crime of which he is accused, such court shall not be competent to punish such person in any higher or more severe manner than by fine not exceeding 1000 rds., and imprisonment with or without hard labour, for a period not exceeding two years; but such court may, either with or without imprisonment, adjudge the offender to receive corporal punishment in any number of lashes not exceeding 50; and secondly, subject to the restriction, that in every case in which the accused person shall be one of the people of any native chief within the said district, charged with having committed a crime in a part of the said district not belonging to any native chief or people, the chief to whom such accused person shall belong shall have due notice of the time and place of trial, and shall be invited to be present at the same, or to send someone to represent him thereat; and such chief or other person shall have liberty to put such questions and make such remarks as he may think necessary to the right of determination of the case. Such court as aforesaid may consist, when the British Resident shall so appoint, of the whole four magistrates, and unanimity shall be necessary in every verdict of guilty, and in the degree of every punishment awarded.

18. Every such court as in the last preceding section mentioned shall possess jurisdiction in all civil cases in which the defendants, being persons resident within the Orange River sovereignty, shall be subject under the 12th of these Regulations, to the Roman-Dutch law.

19. Every such last-mentioned court shall, in the exercise

of its jurisdiction, conform, as much as may be, to the practice of the magistrates' courts, unless in so far as the High Commissioner may otherwise provide.

20. Every magistrate within whose district any crime shall be committed by any person subject as to such crime to the Roman-Dutch law, as contradistinguished from native law, may issue his warrant for apprehending the offender or supposed offender, which warrant shall be executable in any part of the Orange River sovereignty not belonging to any native chief, and also in the lands of any such chief who shall so direct. But such chief, should he prefer it, may himself arrest and deliver up the alleged offender to be dealt with according to law.

21. The High Commissioner will appoint justices of the peace, and field-cornets, and the several magistrates will, subject to his Excellency's approval, appoint constables, and every justice of the peace, field-cornet, and constable shall possess and exercise, within those parts of the sovereignty not belonging to any native chief or people, all powers, authorities, and duties, belonging to the like office in the colony of the Cape.

22. Officers of the law, and private persons, respectively, may arrest without warrant in the Orange River sovereignty, persons accused of crimes committed within the sovereignty, and triable by the Roman-Dutch law, which persons might lawfully have been arrested by the same or similar parties within the colony of the Cape, if accused of crimes committed therein.

23. [Records of all cases tried must be submitted to the High Commissioner. Sentences may not be carried out without his approval if they involve imprisonment exceeding six months, fines exceeding 150 rds., punishment with any number of lashes exceeding 50,[1] etc.]

24. The duties of public prosecutor, when necessary to be performed, shall be discharged by such officer or person as the High Commissioner shall direct.

25. Whenever any person shall be accused of any crime or offence of too grave a nature to be tried either by the magistrate under his summary jurisdiction, or by the court of combined magistrates already described, and such person shall, as a British subject, be liable under the Act 6 & 7 Will. IV., chap. 57, to be tried by the courts of the Cape Colony; such accused person shall be sent into the colony to be dealt with according to law.

26. As often as any crime shall be committed in any territory within the said sovereignty belonging to any native

[1] This *seems* to be the intention of a long and muddled clause which does not keep account with the provisions of preceding clauses.

chief or people, by any person belonging to any native chief within the said sovereignty, the nearest magistrate, upon being applied to for that purpose by any person injured by the crime, and not being one of the people of the same chief who shall, by native law or usage, have jurisdiction over the accused party, shall make, if necessary, such representations to such chief as shall tend to secure or further the ends of justice.

27. When any doubt or question shall arise as to the court to which any accused person should be sent for trial, the matter shall be decided by the British Resident.

Tenure of Land.

28. To avoid occasions of contention, prevent unjust encroachments in any quarter and preserve the just rights of all, the lands of which the continued and exclusive use shall be secured to the several native chiefs and people within the Orange River sovereignty, are to be carefully ascertained and defined.

29. The lands within the Orange River sovereignty belonging to any native chief and people, are to be protected for the use of such chief and people, and shall be regulated by the laws and usages of such chief and people in regard to all rights of occupation or inheritance, and all questions touching the same shall, as heretofore, be determined by the tribunals of such chief and people.

30. All lands within the Orange River sovereignty, not allotted to any native chief or people, shall be held of Her Majesty the Queen, by grant, on such moderate quitrents as may be fixed; such grants to be in the name of the High Commissioner, acting on Her Majesty's behalf, and to be signed, under his Excellency's order, by the British Resident.

31. The amount of such quit-rents, together with every sort and description of revenue raised within the sovereignty, shall be applied exclusively for the benefit of the same.

32–34. [About licenses.]

35–36. [About churches and schools.]

37–38. [About the post and roads.]

[The foregoing Regulations are subject to alteration from time to time.]

(Signed) H. G. SMITH.

Parl. Papers, C. of G. Hope, presented 19 May 1851, p. 3.

No. 158. THE BLOEMFONTEIN CONVENTION.

[23 Feb. 1854.]

[The defence of the country was a costly undertaking, especially as its white inhabitants were almost continually being plundered by the people of the powerful Basuto king, Moshesh. Towards the end of

1852 an attempt was made to chastise that chieftain, but little was effected. The half-formed resolution of the British Government to abandon the Sovereignty was then definitely adopted; but the condition of the country was at a very low ebb, many of the efficient fighting men among the white inhabitants had proceeded across the Vaal, and under the circumstances the majority of the inhabitants were strongly desirous of retaining British protection, though they asked for a liberal form of government. The British Commissioner had some difficulty in persuading representatives of the people elected for the purpose to take over the government; but on 30th January 1854 a royal proclamation was issued, renouncing all dominion over the Territory, and a little later the agreement given here was arrived at.]

Articles of Convention entered into between Sir GEORGE RUSSEL CLERK, . . . Her Majesty's Special Commissioner for settling and adjusting the affairs of the Orange River Territory, on the one part, and the under-mentioned representatives, delegated by the inhabitants of the said Territory:

For the District of Bloemfontein.—GEORGE FREDERIK LINDE, [and 3 others];

For the District of Smithfield.—JOSIAS PHILIP HOFFMAN, [and 4 others];

For Sannah's Poort.—GERT PETRUS VISSER, Justice of the Peace, [and 5 others];

For the District of Winburg.—FREDRIK PETER SCHNEHAGE, [and 5 others];

For the District of Harrismith.—PAUL MICHIEL BESTER, Justice of the Peace, [and 5 others];

on the other part.

ARTICLE 1. Her Majesty's Special Commissioner, in entering into a Convention for finally transferring the Government of the Orange River Territory to the representatives delegated by the inhabitants to receive it, guarantees, on the part of Her Majesty's Government, the future independence of that country and its Government; and that after the necessary preliminary arrangements for making over the same between Her Majesty's Special Commissioner and the said representatives shall have been completed, the inhabitants of the country shall then be free. And that this independence shall, without unnecessary delay, be confirmed and ratified by an instrument, promulgated in such form and substance as Her Majesty may approve, finally freeing them from their allegiance to the British Crown, and declaring them, to all intents and purposes, a free and independent people, and their Government to be treated and considered thenceforth a free and independent Government.

2. The British Government has no alliance whatever with any native Chiefs or tribes to the northward of the Orange

River, with the exception of the Griqua Chief, Captain Adam Kok; and Her Majesty's Government has no wish or intention to enter hereafter into any treaties which may be injurious or prejudicial to the interests of the Orange River Government.

3. With regard to the treaty existing between the British Government and the Chief, Captain Adam Kok, some modification of it is indispensable. Contrary to the provisions of that treaty, the sale of lands in the Inalienable Territory has been of frequent occurrence, and the principal object of the treaty thus disregarded. Her Majesty's Government therefore intends to remove all restrictions preventing Griquas from selling their lands, and measures are in progress for the purpose of affording every facility for such transactions, the Chief, Adam Kok, having, for himself, concurred in and sanctioned the same. And with regard to those further alterations arising out of the proposed revision of relations with Captain Adam Kok, in consequence of the aforesaid sales of lands having from time to time been effected in the Inalienable Territory contrary to the stipulations of the Maitland Treaty, it is the intention of Her Majesty's Special Commissioner, personally, without any unnecessary loss of time, to establish the affairs in Griqualand on a footing suitable to the just expectations of all parties.

4. After the withdrawal of Her Majesty's Government from the Orange River Territory the new Orange River Government shall not permit any vexatious proceedings towards those of Her Majesty's present subjects remaining within the Orange River Territory who may heretofore have been acting under the authority of Her Majesty's Government, for or on account of any acts lawfully done by them, that is, under the law as it existed during the occupation of the Orange River Territory by the British Government. Such persons shall be considered to be guaranteed in the possession of their estates by the new Orange River Government.

Also, with regard to those of Her Majesty's present subjects who may prefer to return under the dominion and authority of Her Majesty to remaining where they now are, as subjects of the Orange River Government, such persons shall enjoy full right and facility for the transfer of their properties, should they desire to leave the country under the Orange River Government at any subsequent period within three years from the date of this convention.

5. Her Majesty's Government and the Orange River Government shall, within their respective territories, mutually use every exertion for the suppression of crime, and keeping the peace, by apprehending and delivering up all criminals who may have escaped or fled from justice either way across

the Orange River, and the courts, as well the British as those of the Orange River Government, shall be mutually open and available to the inhabitants of both territories for all lawful processes. And all summonses for witnesses directed either way across the Orange River, shall be countersigned by the magistrates of both Governments respectively, to compel the attendance of such witnesses, when and where they may be required, thus affording to the community north of the Orange River every assistance from the British courts, and giving, on the other hand, assurance to such Colonial merchants and traders as have naturally entered into credit transactions in the Orange River Territory during its occupation by the British Government, and to whom, in many cases, debts may be owing, every facility for the recovery of just claims in the courts of the Orange River Government. And Her Majesty's Special Commissioner will recommend the adoption of the like reciprocal privileges by the Government of Natal in its relations with the Orange River Government.

6. Certificates issued by the proper authorities, as well in the Colonies and Possessions of Her Majesty as in the Orange River Territory, shall be held valid and sufficient to entitle heirs of lawful marriages, and legatees, to receive portions and legacies accruing to them respectively, either within the jurisdiction of the British or Orange River Government.

7. The Orange River Government shall, as hitherto, permit no slavery, or trade in slaves, in their territory north of the Orange River.

8. The Orange River Government shall have freedom to purchase their supplies of ammunition in any British Colony or Possession in South Africa, subject to the laws provided for the regulation of the sale and transit of ammunition in such Colonies and Possessions; and Her Majesty's Special Commissioner will recommend to the Colonial Government, that privileges of a liberal character, in connexion of import duties generally, be granted to the Orange River Government, as measures in regard to which it is entitled to be treated with every indulgence, in consideration of its peculiar position and distance from the seaports.

9. In order to promote mutual facilities and liberty to traders and travellers, as well in the British Possessions as in those of the Orange River Government and it being the earnest wish of Her Majesty's Government that a friendly intercourse between these territories should at all times subsist, and be promoted by every possible arrangement, a consul or agent of the British Government, whose especial attention shall be directed to the promotion of these desirable objects, will be

stationed within the Colony near to the frontier, to whom access at all times may readily be had by the inhabitants on both sides of the Orange River, for advice and information, as circumstances may require.

This done and signed at Bloemfontein, on the Twenty-third day of February, One Thousand Eight hundred and Fifty-four.

(Signed) GEO. RUSSEL CLERK,
Her Majesty's Special Commissioner.

(Signed)
JOSIAS PHILIP HOFFMAN, *President.*
G. J. DU TOIT, *Field-cornet.*
J. J. VENTER.
D. J. KRAMFORT.
H. J. WEBER, *Justice of the Peace and Field-commandant.*
P. A. HUMAN.
J. P. SNYMAN, *late Field-commandant.*
G. P. VISSER, *Justice of the Peace.*
J. GROENENDAAL.
J. J. RABIE, *Field-cornet.*
E. R. SNYMAN.
C. P. DU TOIT.

(Signed)
H. L. DU TOIT.
F. P. SCHNEHAGE.
M. J. WESSELS.
C. J. F. DU PLOOY.
F. P. SENNEKAL, *Field-cornet.*
P. L. MOOLMAN, *Field-cornet.*
J. I. J. FICK, *Justice of the Peace.*
P. M. BESTER, *Justice of the Peace.*
W. A. VAN AARDT, *Field-cornet.*
W. J. PRETORIUS.
J. J. BORNMAN.
A. H. STANDER.

Parl. Papers, S. Africa, C.O. (42), 1884, p. 94.

No. 159. THE CONSTITUTION OF THE ORANGE FREE STATE.

[The Orange Free State Constitution was adopted on the 10th April 1854, within three weeks after the country became independent of Great Britain. Modifications were made in 1864 and 1865 and confirmed by a resolution of the Volksraad, dated 9th February 1866. These were declared to take effect after two months. It is the Constitution as it stood in 1866 that is given here. It was again revised and published in 1868.

In the year 1892 a compilation of the Free State Laws was published by authority of the Volksraad. The Grondwet appearing therein differs from the one here published in only a few unimportant details, though, of course, a number of laws were passed in the meantime, which altered to some extent the manner of carrying out the provisions of the Constitution.

Those articles of the 1866 Grondwet which are identical with corresponding articles published in 1892 are marked with an asterisk. The instrument was formally repealed by Proclamation No. 3 of 1902 (A), though impliedly it became void by the Proclamation of 24th May 1900, which annexed the country to the British Empire.]

CONSTITUTIE VAN DEN ORANJEVRIJSTAAT.

[10 Ap. 1854, 1866, enz.]

KWALIFICATIE VAN KIESGEREGTIGDEN.

ART. I. De Burgers van den Oranjevrijstaat zullen bestaan:

1. uit alle blanke personen in den Staat geboren;

2. uit alle blanke personen, die één jaar in den Staat hebben gewoond en vast eigendon op hunnen naam geregistreerd hebben ter waarde van minstens Rds. 2000; [1]

3. uit alle blanke personen, die drie achtereenvolgende jaren in den Staat hebben gewoond.[2]

De personen in No. 2 en 3 genoemd, zullen echter niet als burgers erkend worden, tenzij zij van het bestuur hunner laatste woonplaats voor hunne aankomst in den Staat aan den Staatspresident een schriftelijk bewijs van goed gedrag en eene schriftelijke belofte van trouw aan den Staat en gehoorzaamheid aan de wetten inleveren, waartegen hun door den Staatspresident een certificaat van burgerschap zal worden uitgereikt.

ART. II. Alle burgers, zoodra zij den vollen ouderdom van 16 jaren bereikt hebben en alle, die op lateren leeftijd het burgerregt verkrijgen, zijn verplicht hunne namen te doen inschrijven bij den veldkornet, onder wien zij hunne woonplaats hebben, en zijn tot den vollen ouderdom van 60 jaren ouderworpen aan burgerdienst.

CONSTITUTION OF THE ORANGE FREE STATE.

[10 Ap. 1854, 1866, etc.]

QUALIFICATION OF ELECTORS.

ART. I. The Burghers of the Orange Free State shall be:

1. All white persons born in the State;

2. All white persons who have resided in the State for one year and have immovable property registered in their names to the value of at least 2000 Rds.; [1]

3. All white persons who have resided in the State for three successive years.[2]

The persons mentioned in sections 2 and 3 shall, however, not be acknowledged as burghers, unless they shall have submitted to the State President written proof of good behaviour granted by the Government of their most recent place of residence, and a written promise of fealty to the State and obedience to its laws; whereupon a certificate of burghership shall be issued to them by the State President.

ART. II. All burghers, as soon as they shall have reached the age of 16 years, and all who at a more advanced age shall obtain burgher-right, shall be obliged to have their names enrolled by the Field-cornet in whose ward they reside, and shall be liable to render burgher service till they reach the age of 60 years.

[1] The 1868 Constitution changed this sum to £150.

[2] The 1868 Constitution added this provision: "Civil and judicial officials who, before accepting their offices, have taken an oath of allegiance to the State and its laws."

ART. III.* Alle burgers, die den ouderdom van 18 jaren bereikt hebben, zijn bevoegd tot het uitoefenen van het stemregt tot verkiezing van Veldkommandanten en Veldkornetten.

ART. IV.* Bevoegd tot het kiezen van Leden van den Volksraad en van den Staatspresident zijn alle meerderjarige burgers:

a. die in den Staat geboren zijn;

b. die vast eigendom te hunnen naam geregistreerd hebben tot eene onbelastbare waarde van minstens £150;

c. die huurders zijn van vast eigendom, hetwelk eene jaarlijksche huurwaarde heeft van minstens £36;

d. die een vast jaarlijksch inkomen hebben van minstens £200;

e. die eigenaren zijn van roerende goederen tot eene waarde van minstens £300, en minstens 3 jaren in den Staat hebben gewoond.

PLIGTEN, MAGTEN, ENZ., VAN DEN VOLKSRAAD.

ART. V.* Het Hoogste Wetgevende Gezag berust bij den Volksraad.[1]

ART. VI.* Deze Raad zal bestaan uit een lid van elk veldkornetschap der onderscheidene districten en uit een lid van elke hoofdplaats van een district. Deze Raad wordt gekozen bij meerderheid van stemmen door de stemgeregtigde inwoners van elke wijk en van elke hoofdplaats van een district.

ART. VII.[2] Die tot leden van den Volksraad verkiesbaar zijn,

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ART. III.* All burghers who have reached the age of 18 years shall be entitled to exercise the franchise at elections for Field-commandants and Field-cornets.

ART. IV.* Entitled to vote for members of the Volksraad and for a State President are all burghers who are of age, and who:

a. Have been born in the State;

b. Have fixed property registered in their own names, unburdened to the value of at least £150;

c. Are hirers of fixed property which has a yearly rent of at least £36;

d. Have a fixed yearly income of at least £200;

e. Are owners of movable property to the value of at least £300, and have resided in the State for at least 3 years.

DUTIES, POWERS, ETC., OF THE VOLKSRAAD.

ART. V.* The highest legislative power rests with the Volksraad.[1]

ART. VI.* The said Raad shall consist of one member for each field-cornetcy of the several districts and one member for each chief centre [town or village] of a district. This Raad shall be chosen by majority of votes by the inhabitants possessing the franchise in each ward and each chief centre of a district.

ART. VII.[2] In order to be eligible as members of the Volks-

[1] A statute of 1885 gave the High Court the power to decide whether a law was against the Constitution.

[2] The 1868 Constitution substituted this article: "7. As a member of the Volksraad shall be eligible every burgher who has never been pronounced guilty of crime by a jury, who has not been declared bankrupt or insolvent,

moeten burgers zijn, geen lijfstraffelijk vonnis te hunnen laste hebben, den ouderdom van ten minste 25 jaren bereikt hebben en onbelast vast eigendom bezitten ten bedrage van £200.

ART. VIII.[1] De Landdrosten moeten ambtshalve eene zitplaats in den Volksraad hebben, en kunnen een deel nemen in de raadspleging, echter zonder stem.

ART. IX.* De leden van den Volksraad worden voor vier achtereenvolgende jaren gekozen, en zijn bij hunne aftreding weder verkiesbaar. De helft zal om de twee jaren aftreden, en de eerste helft bij het lot geregeld worden.

ART. X.* De Volksraad kiest in zijne jaarlijksche vergaderingen eenen voorzitter uit zijne eigene leden.

ART. XI.* De Voorzitter van den Volksraad zal, bij staking van stemmen, beslissen.

ART. XII.* Twaalf Leden zullen een quorum uitmaken.

ART. XIII.* De Volksraad maakt de wetten, regelt het bestuur en de finantiën des Lands, en zal te dien einde éénmaal 's jaars (te weten op den eersten Maandag van Mei) te Bloemfontein vergaderen.

ART. XIV.* De voorzitter zal, naar bevind van zaken, den Raad extra kunnen bijeenroepen.

ART. XV.* De wetten, door den Volksraad gemaakt, zullen twee

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raad, burghers must not have had any criminal sentence passed on them, must have reached the age of at least 25 years, and must possess unburdened fixed property to the value of £200.

ART. VIII.[1] The Landdrosts shall *ex officio* have seats in the Volksraad, may take part in the deliberations, but shall not have a vote.

ART. IX.* Members of the Volksraad shall be chosen for four successive years and shall be re-eligible on vacating their seats. Half the members shall vacate their seats every two years, and the first half shall be regulated by lot.

ART. X.* The Volksraad shall annually choose a Chairman from among its own members.

ART. XI.* The Chairman of the Volksraad shall decide in case of an equality of votes.

ART. XII.* Twelve members shall form a quorum.

ART. XIII.* The Volksraad shall make the laws, regulate the government and finances of the country, and shall assemble for that purpose at Bloemfontein once a year (viz. on the first Monday in May).

ART. XIV.* The Chairman shall be able to summon the Raad for a special session if circumstances arise to make this necessary.

ART. XV.* The laws made by the Volksraad shall have

who has his fixed abode within the State, who has reached the age of at least twenty-five years, and who possesses unencumbered fixed property to the value of at least five hundred pounds sterling."

[1] Deleted from the 1868 Constitution.

maanden na de afkondiging kracht van Wet hebben, en door den voorzitter of door den Staatspresident geteekend worden; behoudens het regt van den Raad om in bijzondere omstandigheden eene kortere of langere tijdsbepaling vast te stellen; zullende de Raadsleden elk voor zich zoo veel mogelijk de gemaakte wetten aan hun eigen publiek bekend en duidelijk maken.

ART. XVI.* In zaken van insolventie, of indien eenig lijfstraffelijk vonnis tegen den Staatspresident uitgesproken wordt, zal de Volksraad hem dadelijk kunnen afzetten.

ART. XVII.* *a.* De Volksraad zal het recht hebben om den Staatspresident en andere publieke ambtenaren te oordeelen over landsverraad, omkooperij en andere hooge misdaden;

b. De Staatspresident zal niet veroordeeld worden zonder de toestemming van drie tegen een van de tegenwoordige leden;

c. Hij zal niet veroordeeld worden zonder dat de volle Raad tegenwoordig is, of ten minsten zonder dat behoorlijke bekendmaking gegeven worde, om al de leden in de gelegenheid te stellen tegenwoordig te zijn;

d. Indien een quorum bijeengeroepen en eenpariglijk van opinie is dat de Staatspresident aan een van bovengemelde misdaden schuldig staat, zullen zij de magt bezitten om hem dadelijk te suspenderen, en provisionele schikkingen te maken om de pligten van zijn ambt voort te zetten. Maar in dit geval zullen zij verpligt zijn, zoo spoedig mogelijk, den geheelen Raad bijeen te roepen om hem te oordeelen;

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force of law two months after their promulgation, and shall be signed by the Chairman or by the President, saving always the right of the Raad to fix a shorter or longer limit in special circumstances; and the members of the Raad shall each, as much as possible, make known and explain to their own public, the laws passed.

ART. XVI.* In case of insolvency, or if some sentence involving punishment to the person of the State President is passed, the Volksraad shall be empowered to dismiss him immediately.

ART. XVII.* *a.* The Volksraad shall have the right to pass judgment on the State President and other public officers for treason, bribery, and other high misdemeanours;

b. The State President shall not be condemned without the consent of three to one of the members present;

c. He shall not be condemned without the full Raad being present, or at least without due notice being given, so as to give all the members a chance to be present;

d. If a quorum has been summoned and is unanimously of opinion that the State President is guilty of any of the abovementioned crimes, they shall have the power to suspend him immediately and to make provisional arrangements to continue the duties of his office. But in that case they shall be obliged to call together the whole Raad as soon as possible to pass sentence on him;

e. De leden van den Volksraad zullen hunnen eed afleggen bij den aanvang van gemelde onderzoekingen;

f. In het geval dat de Staatspresident zou komen te sterven, of dat hij zijnen post zou bedanken, of daarvan ontslagen worden, of ter verrigting van zijn ambt onbekwaam wordt, zal de Volksraad gemagtigd zijn om een' of meer personen aan te stellen om in zijne plaats te ageren, totdat zulke onbekwaamheden niet meer bestaan, of een ander Staatspresident gekozen worde;

g. Het vonnis van den Volksraad in zulke gevallen zal zich niet verder uitstrekken, dan tot afzetting van hun ambt, en tot onbekwaam verklaring om eenigen post onder het Gouvernement ooit weder te bekleeden. Maar de personen, zoo gevonnisd, zullen niettemin blootstaan om volgens de wet geoordeeld te worden.

ART. XVIII.* De Volksraad behoudt het regt om de kieslijsten van Leden voor den Volksraad zelf te onderzoeken, en te verklaren, of de Leden behoorlijk en wettiglijk gekozen zijn geworden of niet.

ART. XIX.* De Volksraad zal geregelde Notulen zijner verrigtingen doen houden, en van tijd tot tijd dezelve publiceren, uitgenomen zoodanige artikelen, die naar hun oordeel moesten teruggehouden worden.

ART. XX.* De toestemming en afkeuring der onderscheidene Leden over eenige kwestie stemmende, moeten op verlangen van een vijfde deel der tegenwoordige Leden in de Notulen opgeteekend worden.

ART. XXI.* Het publiek zal toegelaten worden de raadplegingen

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e. The members of the Volksraad shall take their oath at the commencement of the said examination;

f. In case the State President should come to die, or should resign his office, or should be dismissed from it, or should become unfit to fulfil the duties of his office, the Volksraad shall be empowered to appoint one or more persons to act in his place, till such unfitness ceases or another State President is chosen;

g. The sentence of the Volksraad in such cases shall not extend any further than to the discharge from office and the declaration of unfitness ever again to fill a post under the Government. But the persons so sentenced shall none the less be liable to be judged according to law.

ART. XVIII.* The Volksraad reserves to itself the right to examine the election lists for members of the Volksraad, and to declare whether the members have been properly and lawfully chosen or not.

ART. XIX.* The Volksraad shall cause regular minutes of its transactions to be kept and to be published from time to time, such articles excepted as ought in their opinion to be kept back.

ART. XX.* The agreement or disapproval of the various members voting on any question shall be noted down in the minutes on the request of one-fifth of the members present.

ART. XXI.* The public shall be allowed to attend the

van den Volksraad bij te wonen, en Notulen der verrigtingen te nemen, uitgenomen in bijzondere gevallen, waarbij het geheim noodzakelijk is.

ART. XXII.* De Volksraad zal geene wetten maken, het regt van de inwoners belettende om zich vredig te vergaderen, en om het Gouvernement te memoraliseren, om eene verhelping van bezwarenissen of eenige verandering in eenige wetten te verkrijgen.

ART. XXIII.* De bevordering van Godsdienst- en Onderwijs is een onderwerp van zorg voor den Volksraad.

ART. XXIV. De Nederlandsch Hervormde Kerk[1] zal door den Volksraad bevorderd en ondersteund worden.

ART. XXV.* De Volksraad zal de magt hebben ter bescherming en veiligheid van dit land, om een Burger—of Kommandowet te passeren.

ART. XXVI.* Nadat deze Constitutie finaal zal zijn vastgesteld, zal er geene verandering in dezelve kunnen gemaakt worden buiten de toestemming van drie vierden van den Volksraad; en voor dat eene zoodanige verandering zal kunnen gemaakt worden, zal er eene meerderheid van drie vierden der stemmen vóór dezelve in twee achtereenvolgende jaarlijksche zittingen moeten plaats hebben.

ART. XXVII.* De Volksraad zal de magt hebben om belastingen op te leggen of te verminderen; om de publieke schulden te betalen; en om voorzorg te maken, ter algemeene verdediging en generale welvaart van den Staat; desgelijks ook geld op het crediet van den Staat op te nemen en over Gouvernements eigendom te disponeren.

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deliberations of the Volksraad and to make notes of the transactions, except in special cases when secrecy is necessary.

ART. XXII.* The Volksraad shall make no laws to prohibit the inhabitants to assemble in a peaceful manner, or to petition the Government to be relieved from difficulties, or to obtain a change in any law.

ART. XXIII.* The furtherance of religion and education shall be a subject for the care of the Volksraad.

ART. XXIV. The Dutch Reformed Church[1] shall be promoted and supported by the Volksraad.

ART. XXV.* The Volksraad shall have the power to pass a Burgher Law or Commando Law for the protection and safety of this country.

ART. XXVI.* After this Constitution shall be finally confirmed, no change in the same shall be made without the agreement of three-fourths of the Volksraad; and before such change can be made, a majority of three-fourths of the votes in favour of it shall be necessary in two successive annual sittings.

ART. XXVII.* The Volksraad shall have the powers to impose taxes or diminish them, to pay the public debt, and to make provision for the general defence and the general welfare of the State, and likewise to take up money on the credit of the State, and dispose of Government property.

[1] Subsequently changed to "De Nederduitsch Gereformeerde Kerk."

PLIGTEN, MAGTEN, ENZ., VAN DEN PRESIDENT.

ART. XXVIII.* Daar zal een Staatspresident zijn.

ART. XXIX. De Staatspresident zal door het publiek [1] gekozen worden; echter zal de Volksraad een of meer personen tot die keuze aanbevelen.

ART. XXX.* De Staatspresident zal voor vijf jaren aangesteld worden, en zal bij aftreding weder verkiesbaar zijn.

ART. XXXI.* De Staatspresident zal het Hoofd van het Uitvoerend Gezag zijn. Het toezigt van alle publieke departementen en de uitvoering en regeling van alle zaken, in betrekking met publieke diensten, zullen aan den President zijn toebetrouwd, die aan den Volksraad verantwoordelijk zal zijn, en wiens handelingen of verrigtingen aan appèl voor den Volksraad onderhevig zullen zijn.

ART. XXXII. De Staatspresident zal ten minste eenmaal in het jaar [2] de dorpen bezoeken, den staat der kantoren en het gedrag der ambtenaren gadeslaan, en de inwoners derzelver en des districts gelegenheid geven hunne belangen op de dorpen voor te brengen.

ART. XXXIII.* De Staatspresident zal in de jaarlijksche Vergaderingen van den Volksraad verslag doen van den staat des Lands en der publieke dienst, zal denzelven met raad en advies dienen, en, indien noodig, wetsontwerpen ter tafel leggen, zonder echter over dezelve stem te mogen uitbrengen.

DUTIES, POWERS, ETC., OF THE PRESIDENT.

ART. XXVIII.* There shall be a State President.

ART. XXIX. The State President shall be chosen by the public,[1] but the Volksraad shall recommend one or more persons for their choice.

ART. XXX.* The State President shall be appointed for five years, and on vacating his office he shall be eligible for re-election.

ART. XXXI.* The State President shall be the head of the Executive Authority. The supervision of all public departments and the execution and management of all matters connected with the public service, shall be entrusted to the President, who shall be responsible to the Volksraad, and whose acts and deeds shall be subject to appeal to the Volksraad.

ART. XXXII. The State President shall visit the towns at least once a year,[2] shall observe the state of the offices and the behaviour of the officials, and give an opportunity to the inhabitants thereof and of the districts to lay their interests before him in the towns.

ART. XXXIII.* The State President shall, in the annual meetings of the Volksraad, report on the state of the country and the public service, shall assist the same with counsel and advice, and shall, if necessary, lay bills upon the table, without, however, being allowed to vote on the same.

[1] For this was substituted in 1868: "by the burghers possessing the franchise."

[2] The 1868 Constitution said: "as often as possible."

ART. XXXIV.* De Staatspresident zal den Volksraad ook extra kunnen bijeenroepen.

ART. XXXV.* De Staatspresident zal de magt hebben, om alle ledige posten in de publieke, kantoren op te vullen, die open zullen vallen tusschen de tijden der Vergaderingen van den Volksraad, onderworpen aan de bekrachtiging van dat ligchaam.

ART. XXXVI.* De Staatspresident zal het regt hebben, om publieke ambtenaren te suspenderen.

ART. XXXVII.* De Staatspresident, met eene meerderheid van den Uitvoerenden Raad, zal het regt van genade in alle crimineele Vonnissen uitoefenen.

ART. XXXVIII.* De Staatspresident, met toestemming van den Volksraad, verklaart oorlog en maakt vrede.

ART. XXXIX.* De Staatspresident zal conventien kunnen maken, onderhevig aan de toestemming van den Volksraad.

ART. XL.* De Staatspresident zal geen traktaat kunnen maken, zonder de toestemming van den Volksraad.

ART. XLI.* De Staatspresident, of eenig Lid van den Uitvoerenden Raad, zal te allen tijde het regt hebben, om den staat der finantien als ook de boeken te inspecteren.

UITVOERENDE RAAD.

ART. XLII.* Er zal een Uitvoerende Raad zijn, bestaande uit den Landdrost van de hoofdstad, den Gouvernements—Secretaris en drie

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ART. XXXIV.* The State President shall further be at liberty to summon an extraordinary session of the Volksraad.

ART. XXXV.* The State President shall have the power to fill all vacant posts in the public offices which may become vacant between the times of meeting of the Volksraad, but subject to the ratification of that body.

ART. XXXVI.* The State President shall have the right to suspend public officials.

ART. XXXVII.* The State President, with a majority of the Executive Council, shall exercise the prerogative of mercy in all criminal sentences.

ART. XXXVIII.* The State President, with the consent of the Volksraad, declares war and concludes peace.

ART. XXXIX.* The State President shall have the power to make conventions, subject to the consent of the Volksraad.

ART. XL.* The State President shall not have the power to conclude any treaty without the consent of the Volksraad.

ART. XLI.* The State President, or any member of the Executive Council, shall have the right at all times to examine the state of the finances as also the books.

EXECUTIVE COUNCIL.

ART. XLII.* There shall be an Executive Council consisting of the Landdrost of the capital, the Government Secretary, and

Onofficieele Leden, gekozen door den Volksraad, om den President met advies en assistentie te bedienen.

De President zal de voorzitter wezen, en eene beslissende stem hebben.

ART. XLIII.* De Uitvoerende Raad zal op den tweeden Maandag van elke tweede maand, en op zoodanige andere tijden als de President mogt verlangen, in de hoofdplaats zitting houden.

ART. XLIV.* De Uitvoerende Raad zal jaarlijks aan den Volksraad verslag van zijne verrigtingen moeten doen.

ART. XLV.* Eene meerderheid van den Uitvoerenden Raad zal het regt hebben om den Volksraad extra bijeen te roepen.

ART. XLVI.* De President en Uitvoerende Raad zullen de magt hebben om de Krijgswet te verklaren.

DE REGTERLIJKE MAGT.

ART. XLVII.* De Landdrost bekleedt de magt van Civielen Commissaris en Resident-Magistraat.

ART. XLVIII.* De Regterlijke magt wordt uitsluitend uitgeoefend door de Geregtshoven, welke door de wet worden vastgesteld.

ART. XLIX.* De Wetgeving regelt insgelijks de crimineele regtspleging, alsmede die in Policiezaken, met dien verstande nogthans, dat criminele zaken ter eerster instantie voor de Hoogere Hoven gebragt, door eene Jury geoordeeld worden.

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three Unofficial Members, chosen by the Volksraad to assist the President with advice and assistance.

The President shall be the chairman and have a casting vote.

ART. XLIII.* The Executive Council shall hold a session in the capital on the second Monday of every second month, and at such other times as the President may desire.

ART. XLIV.* It shall be the duty of the Executive Council to make an annual report to the Volksraad of its transactions.

ART. XLV.* A majority of the Executive Council shall have the right to summon the Volksraad for a special session.

ART. XLVI.* The President and the Executive Council shall have the power to declare martial law.

THE JUDICIAL POWER.

ART. XLVII.* The Landdrost shall hold the powers of Civil Commissioner and Resident Magistrate.

ART. XLVIII.* The judicial power shall be exercised exclusively by the courts of law which are established by law.

ART. XLIX.* Legislation shall also regulate the administration of criminal justice, as also that of police cases, provided nevertheless, that criminal cases coming before the higher courts in the first instance shall be judged by a jury.

HET KRIJGSSTELSEL.

ART. L.* De Veldkornetten zullen door en uit de burgers van hunne wijken, bij meerderheid, gekozen worden.

ART. LI.* Een Veldkommandant zal voor elk district gekozen worden door en uit deszelfs burgers.

ART. LII.* De gezamentlijke veldkommandanten en veldkornetten, welke op een kommando vereenigd zijn, zullen kiezen uit hun midden, ingeval van oorlog, hunnen eigenen Kommandant-Generaal, welke generaal alsdan zijne instructien van den Staatspresident moet ontvangen.[1]

ART. LIII.* Na den oorlog bestaat geen Kommandant-Generaalschap meer.

ART. LIV.* De veldkornetten moeten in hunne eigene wijken woonachtig zijn en landeigendom daarin bezitten.

ART. LV.* De veldkommandanten moeten in hunne eigene districten woonachtig zijn, vast eigendom ten bedrage van £200 Sterling bezitten, en een jaar in het land gewoond hebben.

MENGEL ONDERWERPEN.

ART. LVI.* Het Roomsch Hollandsch regt zal de Grondwet van dezen Staat zijn, alwaar geene andere wet door den Volksraad gemaakt is.

ART. LVII.* De wet is voor allen gelijk; met dien verstande, dat

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THE MILITARY SYSTEM.

ART. L.* The Field-cornets shall be chosen by and from among the burghers of their wards by majority of votes.

ART. LI.* A Field-commandant shall be chosen for each district by and from among the burghers of the same.

ART. LII.* The Field-commandants and Field-cornets, who are united on a commando, shall together, in case of war, choose from their number their own Commandant-General, which General shall thereupon receive his instructions from the State President.[1]

ART. LIII.* After the war the office of Commandant-General shall no longer exist.

ART. LIV.* The Field-cornets shall be resident in their own wards and be possessors of landed property therein.

ART. LV.* The Field-commandants shall be resident in their own districts, possess immovable property to the value of £200 sterling, and have resided in the country for a year.

MISCELLANEOUS SUBJECTS.

ART. LVI.* The Roman-Dutch Law shall be the principal law of this State, where no other law has been made by the Volksraad.

ART. LVII.* The law is for all alike, always understanding

[1] The 1868 Constitution added a provision, by which the Field-cornets and Field-commandants could, on any just grounds, dismiss the Commandant-General elected, and appoint another in his place.

de regter alle wetten met onpartijdigheid zal uitoefenen, zonder aanzien van personen.

ART. LVIII.* Elk inwoner is gehoorzaamheid aan de wet en de overheid verschuldigd.

ART. LIX.* Het eigendomsregt wordt gewaarborgd.

ART. LX.* De persoonlijke vrijheid, mits blijvende binnen de bepalingen der wet, wordt gewaarborgd.

ART. LXI.* De vrijheid der drukpers wordt gewaarborgd, mits blijvende binnen de wet.

De Voorzitter van den Volksraad,
H. O. DREYER.
De Secretaris,
H. SYBOUTS.

Verzameling van Besluiten . . . v. d. O.V.S. [1867 ?].
[This work has a separate pagination for each statute.]

No. 160. ORDONNANTIE. [15 Ap. 1854.]

No. 3, 1854.[1]

Ter bepaling en vaststelling van de Nederduitsche of Hollandsche taal als de wettige hoofdtaal van den Oranjevrijstaat.

NADEMAAL het gemak en de geregeldheid der publieke bezigheid vereischen; dat in alle Geregtshoven en Kantoren in dezen Staat, eene officieele taal bepaald—en vastgesteld worde; en aangezien de groote meerderheid der inwoners van dit Land van Hollandsche afkomst en weinig met andere talen bekend is, en dat het dus onge-

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that the judge shall exercise all laws with impartiality and without respect of persons.

ART. LVIII.* Every inhabitant owes obedience to the law and to the authorities.

ART. LIX.* Right of property is guaranteed.

ART. LX.* Personal freedom, provided the provisions of the law are not contravened, is guaranteed.

ART. LXI.* The freedom of the press is guaranteed, provided the law is not contravened.

No. 160. ORDINANCE. [15 Ap. 1854.]

No. 3, 1854.[1]

For prescribing and establishing the Dutch language by law as the chief language of the Orange Free State.

WHEREAS the comfort and the regularity of the public service demand that in all Courts of Justice and in all Offices in this State one official language shall be prescribed and established; and considering that the great majority of the inhabitants of this country are of Dutch descent and are but slightly familiar with other languages, and that it would

[1] Finally repealed by Procl. No. 3 of 1902 (A).

legen zou zijn dat eenige andere dan de Hollandsche taal in regterlijke verrigtingen, zoowel als in de civiele dienst gebezigd zoude worden.— Zij het derhalve verordend, dat van den eersten dag van Junij, aanstaande af, de Hollandsche taal de hoofdtaal in alle Geregtshoven en publieke Kantoren, door dezen Staat zijn zal; en dat alle dagvaardingen, vonnissen, uitspraken, orders, lastschriften, instructien, ordonnantien, proclamatien, enz., in de Hollandsche taal geschreven, uitgevaardigd en gepubliceerd zullen worden; en verder dat alle brieven, memories, of andere communicatien, aan dit Gouvernement gerigt, indien niet in de Hollandsche taal opgesteld, met eene Hollandsche vertaling zullen moeten vergezeld worden.

En zij het nader verordend, dat alle klerken in de Landdrosts— en andere publieke Kantoren beide met de Hollandsche en Engelsche talen genoeg zullen moeten bekend zijn, om als tolkers in alle zaken te kunnen ageren.

Gegeven te Bloemfontein, dezen 15 den dag van April 1854.

Uit last van den Volksraad.

J. P. HOFFMAN, *Fung. President.*

(Bij order) WILLIAM COLLINS, *Fung. Secretaris.*

Verz. van Besl. v. d. O.V.S. [1867 ?].

No. 161. INSTRUCTIE VOOR DE VELDCORNETTEN VAN DEN ORANJEVRIJSTAAT. [16 Ap. 1854.]

ART. 1. De Veldcornetten moeten ieder in zijne wijk worden beschouwd als ondergeschikte magistraats-personen, en behooren als zoodanig geëerbiedigd te worden.

ART. 2. Zij dienen niet uit het oog te verliezen, dat zij als over-

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therefore be inconvenient to employ any other than the Dutch language in judicial proceedings or in the civil service;

Be it therefore ordained, that from the first day of June, next, the Dutch language shall be the chief language in all Courts of Justice and public Offices throughout this State; and that all summonses, judgments, sentences, orders, decrees, instructions, ordinances, proclamations, etc., shall be written, issued, and published in the Dutch language; and further, that all letters, memorials, or other communications, addressed to this Government, if not drawn up in the Dutch language, shall be accompanied by a Dutch translation.

And be it further ordained that all clerks in the Landdrosts' and other public Offices shall have a sufficient knowledge of both the Dutch and the English language to be able to act as interpreters in all cases.

No. 161. INSTRUCTIONS TO THE FIELD-CORNETS OF THE ORANGE FREE STATE. [16 Ap. 1854.]

ART. 1. The Field-cornets must be regarded in their respective wards as lesser magistrates, and ought to be respected as such.

ART. 2. They should not lose sight of the fact that as

heidspersonen de achting en toegenegenheid hunner burgers alleen kunnen verwerven door hen met bescheidenheid te behandelen, en een voorbeeld te geven van die pligten, welke zij van anderen vorderen.

ART. 3. Zij moeten trachten alle geschillen onder de bewoners hunner wijken, waaruit processen of vijandschap kan outstaan, te schikken of te bemiddelen ter vereeniging van partijen.

ART. 4. [De Veldcornetten moeten zich immer stipt onpartijdig gedragen.]

ART. 5. De Veldcornetten zijn gehouden te letten op de rust en goede orde in hunnen omtrek, en niet te gedoogen dat dezelve door iemand der bewoners, wie hij ook zij, worden gestoord.

ART. 6. Behalve de Algemeene Wetten, Proclamatien, Ordonnantien en andere Instructien van Gouvernementswege, ontvangen zij alle orders door den Landdrost of den Staatspresident.

ART. 7. De Veldcornetten moeten alle gevangenen onder behoorlijke bewaring aan den naastvolgenden Veldcornet zenden, die gehouden is dezelven over te nemen, en op dezelfde wijze verder te doen bezorgen, en zulks tot dat ter bestemder plaatse zullen zijn aangekomen.

ART. 8. De Veldcornetten geven van alle buitengewone gebeurtenissen, waaromtrent hierin niets is bepaald, kennis aan den Landdrost, en daar alle voorvallen niet kunnen worden voorzien, blijft het aan de voorzigtigheid van iederen Veldcornet aanbevolen, om, wanneer de tijd, welke tot het doen van rapport en ontvangen van orders niet kan

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persons in authority they can win the respect and goodwill of their burghers only by acting towards them in a modest manner and setting an example in the fulfilment of those duties which they demand from others.

ART. 3. They shall try to settle amicably all disputes among the inhabitants of their wards, out of which legal action or enmity might arise, and to act as mediators in order to reconcile parties.

ART. 4. [The Field-cornets shall at all times act with strict impartiality.]

ART. 5. The Field-cornets are held to see to the peace and good order of their neighbourhood, and not to permit the same to be disturbed by any of the inhabitants whatever.

ART. 6. Besides the general laws, proclamations, ordinances, and other instructions on the part of the Government, they shall receive all commands through the Landdrost or the State President.

ART. 7. The Field-cornets shall send all prisoners under a proper guard to the next Field-cornet, who is obliged to take them over and to send them farther on their way in the same manner, and so on till they shall have arrived at their destination.

ART. 8. The Field-cornets shall report to the Landdrost all unusual occurrences about which no provision is made here, and as all events can not be foreseen, it is recommended to the vigilance of every Field-cornet, when the time needed for reporting any matter and receiving commands thereon cannot

verloopen zonder wezenlijk nadeel voor de belangen des Lands, of eenige ingezetene, het kwaad dadelijk te stuiten, en des noods met geweld tegen te gaan, om terstond daarvan rapport te maken aan zijnen Landdrost.

ART. 9. [Zij moeten Gouvernements brieven, enz. met spoed verzenden.]

ART. 10. [Voorziening als een Veldcornet zich buiten zijnen omtrek begeeft.]

ART. 11. Alle assistent Veldcornetten, aangesteld onder de voorzieningen van den Landdrost, worden geautoriseerd en gerekwireerd alle zoodanige zaken en dingen te doen en te verrigten als tot de pligten van hun ambt behooren, en zij zullen, zoo lang als zij in officie blijven, geregtigd zijn tot alle zoodanige voorregten, welke door de Veldcornetten genoten worden.

ART. 12. De Veldcornetten en assistent Veldcornetten zullen, zoo lang zij in zoodanig ambt blijven, bevrijd zijn van de jaarlijksche recognitie hunner woonplaatsen.

ART. 13. In alle gevallen van moord of misdaden, gepleegd door middel van geweld, . . . zal de Veldcornet . . . zich dadelijk naar de plaats moeten begeven waar die misdaad gepleegd is, en nauwkeurig alle sporen van geweld moeten onderzoeken. . . .

ART. 14. Indien de gewonde of beleedigde persoon in leven is, wanneer de schouwing plaats heeft, zal de Veldcornet . . . onderzoek moeten doen naar den aard en de oorzaken der wonden. . . .

ART. 15. Ieder Veldcornet wordt gelast om elk, die eenige misdaad

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elapse without positive injury to the interests of the Country or to any of the inhabitants, to check the evil immediately and, if necessary, to oppose it by force, and to report thereon at once to his Landdrost.

ART. 9. [They shall despatch Government letters, etc. with speed.]

ART. 10. [Provision for carrying out the duties of any Field-cornet who goes outside his ward.]

ART. 11. All Assistant Field-cornets, appointed under directions from the Landdrost, are authorised and required to do and perform all such matters and things as belong to the duties of their office, and they shall, so long as they remain in office, be entitled to all such privileges as are enjoyed by Field-cornets.

ART. 12. The Field-cornets and Assistant Field-cornets, as long as they hold these offices, shall be exempt from the annual acknowledgment on their farms.

ART. 13. In all cases of murder or other crimes committed by violent means . . . the Field-cornet . . . shall immediately betake himself to the spot where such crime has been committed, and shall examine carefully all traces of violence. . . .

ART. 14. If the wounded or insulted person is alive when the examination takes place, the Field-cornet shall enquire into the nature and the causes of the wounds. . . .

ART. 15. Every Field-cornet is instructed to arrest any

of inbreuk op de publieke rust in zijne tegenwoordigheid zal plegen, te arresteren, alsmede een ieder dien hij op goede gronden zal vermoeden te hebben gepleegd eenigen moordschuldigen doodslag, verkrachting, diefstal, of aanranding met voornemen eenige misdaad te plegen, of waarin eene gevaarlijke wond is toegebragt, enz.

ART. 16. Het staat iederen Veldcornet vrij, die hierbij geautoriseerd en gelast is, eenig persoon te arresteren, die men weet of vermoedt, dat eenige misdaad of overtreding heeft gepleegd; tot dat einde de deuren van ieder huis, waarin men weet of verondersteld, dat zoodanig persoon zich bevindt, open te breken en dezelve te doorzoeken, mits zoodanig Veldcornet of privaat persoon geenen toegang zal hebben kunnen bekomen, na dezelve overluid te hebben gevraagd, en kennis te hebben gegeven van het einde waarom hij in zoodanig huis verlangt te worden toegelaten.

ART. 17. Een ieder mannelijk onderdaan tusschen de 16 en 60 jaren oud, die daartoe geroepen wordt, wordt hierdoor gerequireerd eenige speciale Magistraatspersoon, Veldcornet, Assistent Veldcornet of Constabel, te helpen in het ten uitvoer leggen hunner pligten.

ART. 18. Alle Veldcornetten zullen, wanneer zij tot dat einde worden opgeroepen, alle hulp en bijstand moeten verleenen aan alle speciale Magistraatspersonen, in het bedwingen van alle oproer, openbare orde en rustverstoring. . . .

ART. 19. Ieder Veldcornet en Assistent Veldcornet is geautoriseerd en wordt mits dezen gelast den wagen of de voertuigen van elk handelaar te doorzoeken, welke zij verdacht houden vuurwapenen of

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one who commits any crime or breach of the public peace in his presence, as also every one whom he shall suspect on good grounds of having committed culpable homicide, rape, theft, or assault with the intention to perpetrate any crime, or by which a serious wound was inflicted, etc.

ART. 16. Every Field-cornet is entitled, as he is hereby authorised and required, to arrest any person who is known or suspected of having committed any crime or contravention; to force open, with that object, the doors of any house in which it is known or supposed that such person is, and to search the same, but only when such Field-cornet or private person shall not have been able to gain admittance after having demanded it aloud and stated the object for which he wishes to be admitted to such house.

ART. 17. Every male subject between the ages of 16 and 60 years, who may be called upon, is hereby required to assist any special Magistrate, Field-cornet, Assistant Field-cornet or Constable, in the execution of their duties.

ART. 18. All Field-cornets shall, when they are called upon to do so, give every help and assistance to all special Magistrates in quelling riots and disturbances of the public peace. . . .

ART. 19. Every Field-cornet and Assistant Field-cornet is authorised and is hereby required to search the wagon or other vehicle of every trader, when they suspect that the same contains fire-arms or ammunition not mentioned in the certifi-

ammunitie te bevatten, niet vermeld in het certificaat, dezelve in beslag te nemen en aan den Landdrost dadelijk kennis te geven en op te zenden.

ART. 20. Alle Veldcornetten of provisionele Veldcornetten worden met dezen gelast op licenties van de handelwagens, die hunne wijken passeren, aan de keerzijde hunne namen te schrijven.

ART. 21. Alle Veldcornetten zullen verpligt zijn de namen van alle dienstdoende burgers op te geven aan het kantoor van den Landdrost van hun district.

J. P. HOFFMAN, *Fung. Staatspresident.*
(Bij order) J. GROENENDAAL, *Staatssecretaris.*

BLOEMFONTEIN, 16 *April* 1854.

Verz. van Besl. v. d. O.V.S. [1867 ?].

No. 162. ORDONNANTIE.[1] [12 Feb. 1856.]

No. 1, 1856.

Tot regeling der verkiezing van den Staatspresident en andere ambtenaren, en andere noodige bepalingen omtrent bijzonderheden in de Constitutie vervat, die niet voldoende zijn omschreven, of waaromtrent geene voorzieningen zijn gemaakt,—vastgesteld door den HEd. Volksraad, in zijne Vergadering, gehouden te Bloemfontein, in den Oranjevrijstaat, op den 12den dag der maand Februarij, in het jaar 1856.

NADEMAAL er bij de Constitutie van den Staat, gedateerd den 10 den April 1854, eenige bepalingen gemaakt zijn, zonder de wijze van

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cate, to take possession of the same, and to send the same and to give immediate information to the Landdrost.

ART. 20. All Field-cornets and Provisional Field-cornets are hereby instructed to sign their names on the back of the licenses of trading-wagons which pass through their wards.

ART. 21. All Field-cornets shall be obliged to hand in at the Landdrost's office of their district the names of all burghers who render service.

No. 162. ORDINANCE.[1] [12 Feb. 1856.]

No. 1, 1856.

To regulate the election of the State President and other officials; and other necessary regulations regarding particular points in the Constitution which have not been properly defined, or with regard to which the necessary provision has not been made,—confirmed by the Volksraad in its session held at Bloemfontein in the Orange Free State, on the 12th day of the month of February, in the year 1856.

WHEREAS in the Constitution of the State, dated 10th April 1854, some regulations have been made without defining

[1] Repealed by Procl. No. 3 of 1902 (A).

uitvoering, of het in werking brengen van zoodanige bepalingen, te regelen of te omschrijven :

Zoo is het, dat de Raad, om alle twijfelingen en verschil van gevoelen, dat daardoor zou kunnen ontstaan, te vermijden en voor te komen, heeft goedgevonden vast te stellen en te bepalen :

BETREKKELIJK DE WIJZE WAAROP DE VERKIEZING VAN EENEN PRESIDENT, LID DES RAADS, VELDKOMMANDANT OF VELDKORNET ZAL GEREGELD WORDEN.

1. [Kennisgeving van een te houden kiezing van een Staatspresident geschiedt in de *Gazette* of *Courant*.]

2–13. [De wijze waarop gestemd moet worden en waarop klachten in verband met de kiezing gemaakt en gehoord moeten worden.]

14. Geene stemmen zullen voor eenen Staatspresident of lid van den Volksraad worden aangenomen, tenzij de persoon, voor wien gestemd zal worden, vooraf eene geschrevene uitnoodiging zal hebben bekomen ; voor eenen President geteekend, namens den Volksraad, door den voorzitter van den Raad, of anders door ten minste 25 stemgeregtigden, en voor een raadslid door ten minste 10 stemgeregtigden ; zullende zoodanige uitnoodiging met de namen der onderteekenaren en het toestemmend antwoord in de *Courant* moeten worden gepubliceerd, ten minste 28 dagen voor dat eenige kiezing zal mogen plaats vinden.

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or providing for the manner of executing or bringing into operation such regulations :

Now therefore the Raad, in order to avoid and prevent all doubts or differences of opinion, which might arise therefrom, has thought fit to affirm and declare :

WITH REGARD TO THE MANNER IN WHICH THE ELECTION OF A STATE PRESIDENT, MEMBER OF THE RAAD, FIELD-COMMANDANT OR FIELD-CORNET SHALL BE REGULATED.

1. [Notice shall be given in the *Gazette* or *Courant* of any election for a State President about to be held.]

2–13. [The manner of voting and of making and hearing complaints in connection with the election.]

14. No votes for a State President or member of the Volksraad shall be accepted, unless the person for whom the votes are recorded shall have received beforehand a written invitation, signed in the case of the President, by the chairman of the Volksraad in the name of that body, or by at least 25 persons possessing the franchise, and in the case of a member of the Raad by at least 10 persons possessing the franchise ; and such invitation, with the names of the signatories and the reply accepting nomination, shall be published in the *Courant* at least 28 days before any such election shall be allowed to take place.

15. [Hoe de stemmen geteld moeten worden.]

16. [De gekozen Staatspresident verschijnt voor den Raad en legt de ambtseed af.]

17. De lijsten tot kiezing van een raadslid zullen bij den Raad worden ingeleverd. . . .

18. De lijsten tot kiezing van eenen veldkommandant of veldkornet zullen . . . aan den Gouvernementssecretaris worden ingezonden. . . .

[Schedules A en B volgen hier.]

BETREKKELIJK DE UITOEFENING VAN HET REGT VAN GENADE.

Daar omtrent dit punt in . . . de Constitutie zeer onbepaald gesproken wordt, wordt het bij dezen vastgesteld en verklaard:

1. Dat door crimineele vonnissen, waarover de Staatspresident met den Uitvoerenden Raad het regt van genade heeft, dat is, van vrijschelding of vermindering van straf, zullen worden verstaan, vonnissen op de grovere misdaden van moord, manslag, brandstichting, huisbraak, dieverijen en dergelijke, voor de Hoogere of Rondgaande Geregtshoven geprosequeerd, doch dat de President *alleen* geregtigd zijn zal, om vrijlating of vermindering van straf of boeten te authoriseren, op vonnissen door de mindere Geregtshoven van de Landdrosten of Landdrost en Heemraden uitgesproken, of van boeten, verbeurd wegens het niet tijdig betalen van Heerenregten, of onder postcontracten en dergelijke overtredingen.

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15. [How the votes shall be counted.]

16. [The State President elected shall appear before the Raad and take the oath of office.]

17. The lists for the election of a member of the Raad shall be sent in to that body. . . .

18. The lists for the election of a Field-commandant or Field-cornet shall be sent . . . to the Government Secretary. . . .

[Schedules A and B follow here.]

REGARDING THE EXERCISE OF THE RIGHT OF MERCY.

As mention is made of this point in a very indefinite manner in . . . the Constitution, it is hereby affirmed and declared:

1. That by criminal sentences in which the State President with the Executive Council has the right of mercy, that is, of remitting or mitigating punishments, shall be understood, sentences for the more serious crimes of murder, manslaughter, arson, burglary, theft and similar offences prosecuted before the Higher or Circuit Courts; but that the President by himself shall be empowered to authorise a remittance or mitigation of punishments or fines in sentences pronounced by the lower Courts of Landdrost or Landdrost and Heemraden, or of sums forfeited on account of not paying any Heerenrechten in time, or under postal contracts or similar offences.

BETREKKELIJK DE VERKLARING VAN OORLOG, OF HET MAKEN VAN VREDE.

Zij het mits dezen vastgesteld en bepaald:

1. Dat onder art. 36 van de Constitutie [1] niet zal worden verstaan, dat de Staatspresident, zonder vooraf bekomene goedkeuring van den Volksraad, het regt niet hebben zal om te handelen met of zonder advies van den Uitvoerenden Raad; maar dat hij gehouden zal zijn om in elk der hieronder vermelde gevallen, of die van dien aard zijn, dadelijk maatregelen te nemen om, indien vereischt, door geweld van wapenen de regten van dezen Staat te doen gelden of verdedigen, en het leven, de goederen en regten van de ingezetenen van den Staat te beschermen, als:

"In geval van vijandelijke invallen in den Staat, of bedreigde aanvallen van buiten, of van molesten of bezitneming van eenige private of publieke goederen of eigendommen, ongeoorloofde of gevaarlijke zamenrottingen, veedieverijen, landlooperijen, publieke aanrandingen of geweld, door enkele personen of benden, van eenige volken van binnen of buiten de bewoonde of verklaarde grenzen van dezen Staat, zal de Staatspresident gehouden en geregtigd zijn om onverwijld de noodige stappen te nemen, om de geweldenaars te stuiten, te verdrijven, gewapend aan te vallen, gevangen te nemen, en te achtervolgen over en buiten de grenzen van dezen Staat, wanneer zulks vereischt mogt worden, ofschoon daardoor een' oorlog zoude kunnen outstaan; mits van alle zulke handelingen aan den Volksraad verslag doende."

REGARDING THE DECLARATION OF WAR AND THE MAKING OF PEACE.

Be it hereby affirmed and laid down:

1. That by art. 36 of the Constitution [1] it shall not be understood that the State President, without having first obtained the approval of the Volksraad, shall not have the right to act with or without the advice of the Executive Council; but that he shall be held, in every case mentioned below or of a like nature, to take measures immediately, by force of arms if necessary, in order to maintain or defend the rights of this State, and to protect the lives, the property and the rights of the inhabitants:

"In the event of hostile invasions of the State, or threatened attacks from outside, or meddling with or taking possession of any private or public property, unauthorised or dangerous conspiracies, thefts of cattle, vagrancies, public assaults or violence, by individual persons or bands of persons from within or without the inhabited or declared limits of this State, the State President shall be required and authorised to take the necessary measures immediately to repulse, expel, attack with arms, take captive or follow, the perpetrators across and beyond the limits of this State, whenever it shall be necessary, even though a war could be caused thereby; provided that he shall give an account of all such actions to the Volksraad."

[1] *i.e.* the Constitution of 1854. See art. xxxviii., p. 293.

2. Dat door art. 38 [1] van de Constitutie niet moet worden verstaan, dat de Staatspresident niet zal vermogen eenig verdrag of overeenkomst met eenige natie, volkstam, of Gouvernement aan te gaan, zonder *vooraf* de toestemming van den Volksraad te hebben bekomen; maar dat zoodanige overeenkomst of verdrag alleen van kracht zal zijn, tot dat door den Volksraad zal worden beslist of dezelve zal worden veranderd, verbeterd, of geheel vernietigd.

MET BETREKKING TOT DEN UITVOERENDEN RAAD.

Daar in de Constitutie geene voorzieningen zijn gemaakt met betrekking tot de regeling der handelingen van den Uitvoerenden Raad, zoo wordt mits dezen vastgesteld en bepaald:

1. Dat de officieele leden zullen beschouwd worden te bestaan uit den Landdrost van de hoofdplaats, en den Gouvernementssecretaris, of den persoon of personen die bij hunne afwezigheid als anderszins in hunne betrekkingen zijn geplaatst, en als zoodanig aan de hoofdplaats ageren.

2. Dat drie der leden van den Uitvoerenden Raad een *quorum* zullen uitmaken.

3. Dat geen lid van den Uitvoerenden Raad stemmen zal in eenige zaak of kwestie waarin als belanghebbende of wegens familiebetrekking, of uit eenige andere oorzaak, een regter onbevoegd zou zijn te stemmen of te handelen.

4. Dat in gevallen van noodzakelijkheid, of in geschillen tusschen private personen, wanneer partijen daartoe consenteren, en er geen

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2. That art. 38 [1] of the Constitution must not be understood to mean that the State President shall not be able to conclude any treaty or agreement with any nation, tribe or government without having first obtained the consent of the Volksraad; but that such agreement or treaty shall be of force only until the Volksraad shall decide whether the same shall be amended, improved or completely nullified.

REGARDING THE EXECUTIVE COUNCIL.

Whereas in the Constitution no provision has been made as regards the regulation of the activities of the Executive Council, therefore it is hereby affirmed and laid down:

1. That the official members shall be regarded as consisting of the Landdrost of the capital and the Government Secretary, or of the person or persons who in their absence or otherwise are placed in their offices and who act as such in the capital.

2. That three members of the Executive Council shall form a quorum.

3. That no member of the Executive Council shall vote on any matter or question wherein, as an interested party or on account of family relationship or for any other reason, a judge would be incompetent to vote or to act.

4. That in all cases of necessity, or in differences between private persons, when the parties shall agree thereto and no

[1] See art. xl., p. 293.

quorum in den Raad kan worden bekomen, de Staatspresident zal mogen beslissen, of op eigene verantwoording handelen.

5. Dat met ultimo Januarij in elk jaar de oudste der onofficieele leden van den Uitvoerenden Raad zal uit dienst treden, en een ander gekozen worden; doch hij zal weder kunnen worden ingeroepen.

6. Een onofficieel lid resignerende, stervende, of zijne woonplaats verlatende, en zich ter woon begevende op eenen afstand van meer dan 30 Engelsche mijlen van de hoofdplaats, of op eene andere wijze zijne plaats in den Raad ontruimende, zal de President het regt hebben eenen anderen te benoemen en aan te stellen, onder nadere approbatie van den Volksraad.

7. Door een onofficieel lid zal worden verstaan iemand, die in geene publieke betrekking is, waarvoor hij salaris uit de algemeene landskas geniet.

8. De Uitvoerende Raad zal zijne eigene Regulatien, betrekkelijk zijne eigene handelingen, of betrekkelijk zaken die voor denzelve, als Uitvoerend Gezag, *of als Hof van Appel* [1] gebragt worden, mogen vervaardigen en doen observeren, onderworpen aan de goed—of afkeuring van den Volksraad.

9. Wanneer de Landdrost van de hoofdplaats in eenige zaak die voor den Uitvoerenden Raad gebragt wordt, ambtshalve zal zijn betrokken geweest, zal de President een ander in zijne plaats mogen aanstellen.[2]

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quorum of the Council can be got together, the State President shall be allowed to decide or act on his own responsibility.

5. That on the last day of January in each year the oldest of the unofficial members of the Executive Council shall vacate his office and another be chosen; but that he shall be re-eligible.

6. An unofficial member resigning, dying, or leaving his place of residence and going to reside at a distance of more than 30 English miles from the capital, or in any other way vacating his seat in the Council, the President shall have the right to nominate and appoint another, subject to the approval of the Volksraad.

7. By an unofficial member shall be meant one who does not hold any public office for which he receives a salary from the public treasury.

8. The Executive Council shall be at liberty to draw up and cause to be observed its own regulations regarding its activities, or regarding matters which are before it in its capacity as the executive authority *or as a Court of Appeal*,[1] subject to the approval or disallowance of the Volksraad.

9. When the Landdrost of the capital has been concerned, in his capacity as such, in any matter which is brought before the Executive Council, the President shall be authorised to appoint another person in his place.[2]

[1] The words in italics do not appear in the law as published in the 1892 compilation. The High Court set up in 1875 became the Court of Appeal.

[2] The 1892 compilation has a further article, by which the payment of unofficial members of the Executive was provided for.

BETREFFENDE DE REGTERLIJKE MAGT.

Wordt bij dezen vastgesteld en bepaald :

1. Het Rondgaande Hof van Landdrosten heeft jurisdictie in alle civiele zaken, tot eenig bedrag, en van welken aard ook, in het Hof bepaald, voor elk district of afdeeling, en daar zitting houdende ; en in zoodanige zaken als van het Rondgaande Hof van eene andere plaats, op verzoek van partijen, of om andere redenen, naar zoodanig Hof mogten zijn gerefereerd geworden, doch zal in alle civiele actien van het Rondgaande Hof appèl zijn naar den Uitvoerenden Raad, en de notulen van het proces door den Registrateur van het Hof moeten worden gehouden en gecertificeerd.

2. Elke Landdrost zal geregtigd zijn tusschen de zittingen van het Rondgaande Geregtshof, in zijn district, te fungeren als gecommitteerd lid van het gemelde Hof, en als zoodanig mogen handelen in naam van het Hof voormeld, in het beleggen van eenig interdict of beslag op vaste en losse eigendommen, of arrest op personen, of het cntheffen, van zoodanig interdict, beslag of arrest, na verhoor van de partijen. . . .

3. Het Rondgaande Hof van Landdrosten heeft jurisdictie in alle crimineele zaken, voor eenige misdaad of overtreding hoegenaamd, begaan of gepleegd in het district of afdeeling waar het hof zal zitting houden ; doch zal geen vonnis tegen eenig persoon door dat Hof mogen worden uitgebragt, dan nadat eene uitspraak van schuldig door eene jury of raad van gezworenen, bestaande uit zes of negen personen, tegen den beschuldigde zal zijn ingebragt. Doch zal het Hof op daartoe

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REGARDING THE JUDICIAL POWER.

It is hereby affirmed and laid down :

1. The Circuit Court of Landdrosts shall have jurisdiction in all civil cases, to any amount and of whatever nature, laid down in Court, for every district or division and holding a session there ; and in such cases as may have been referred to it from the Circuit Court of any other place at the request of the parties, or for any other reason ; but in all civil actions of the Circuit Court there shall be an appeal to the Executive Council, and the minutes of the process shall be kept and certified by the Registrar of the Court.

2. Every Landdrost shall be entitled, between the sittings of the Circuit Court in his district, to act as a commissioned member of the said Court, and shall, as such, act in the name of the said Court in drawing up any interdict or attachment of immovable or movable property, or in arresting persons or raising such interdict, attachment or arrest, after hearing the parties. . . .

3. The Circuit Court of Landdrosts has jurisdiction in all criminal cases over any offence or contravention of the law whatsoever, committed or done in the district or division where the Court shall hold its sitting ; but no sentence against any person shall be pronounced by the said Court, until after a verdict of guilty shall have been brought against the accused by a jury or council of jurors consisting of six or nine persons.

bestaande gegronde redenen, de teregtstelling van eenige zaak naar het Rondgaande Geregtshof, op eene andere plaats zitting houdende, mogen verwijzen, en in zulk ander geval zal zulk ander Hof competent zijn.

4. Onder reeds vastgestelde bepalingen, of wanneer de Staatspresident redenen daartoe zal zien, zal een Rondgaand Geregtshof, op eene plaats zitting houdende, jurisdictie hebben in, en geregtigd zijn om zaken, zoowel civiel als crimineel, van een ander district of afdeeling voor zich te doen teregt stellen, en daarop vonnis uitspreken; doch zal in zulk geval tijdige kennis moeten worden gegeven, opdat partijen en getuigen in tijds kunnen worden geciteerd.

5. Er zal een Hof van appèl zijn in alle zaken, die voor de mindere Geregtshoven van Landdrosten of Landdrosten en Heemraden gediend hebben naar het Rondgaande Geregtshof.

6. Totdat anders daaromtrent zal zijn voorzien, zal de Uitvoerende Raad het Hof van appèl zijn in alle civiele zaken, die gediend hebben voor het Rondgaande Hof, hetzij in appèl of ter eerster instantie.[1]

7. In crimineele zaken bestaat geen appel, doch beroep bij rekwest op den Uitvoerenden Raad, ingeval van eenige klagte tegen het Hof waarvoor de zaak gediend heeft, wegens ongeregeldheid, partijdigheid, of verkeerde toepassing van de wet, of weigering om de geoffereerde getuigen of bewijzen aan te nemen of het aannemen van getuigen en bewijzen, die volgens de wet niet competent zijn, enz. In welke gevallen de Staatspresident de uitoefening der straf zal mogen opschorten, en de

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But the Court shall be able to refer for trial any case to any Circuit Court sitting at another place, for any good reason for such transference, and in such case such other Court shall be competent.

4. According to regulations already laid down, or when the State President shall see cause for it, any Circuit Court sitting at any place shall have jurisdiction and shall be entitled to have civil and criminal cases brought for trial before it from any other district or division, and to pronounce judgment therein; but in such case sufficient notice shall be given so that parties and witnesses may be summoned in time.

5. There shall be a Court of Appeal to the Circuit Court in all cases which have come before the lower Courts of Landdro ts or Landdrosts and Heemraden.

6. Till other provision shall be made therein, the Executive Council shall be the Court of Appeal in all civil cases, which have come before the Circuit Court, whether on appeal or in the first instance.[1]

7. In criminal cases there shall be no appeal, but only a reference by petition to the Executive Council, in case of any complaint against the Court before which the case has been tried, on account of irregularity, partiality or a wrong application of the law, or refusal to accept the witnesses called or the evidence produced, or acceptance of witnesses and evidence which are not competent according to law, etc. In which

[1] Cf. the law relating to the higher courts, p. 326.

zaak voor den Uitvoerenden Raad in *revisie* (review) doen komen en omtrent de punten in geschil uitspraak doen, en zoodanige bevelen geven als de Raad mogt goedvinden.

8. De Staatspresident zal den tijd wanneer, en de plaats waar de Rondgaande Geregtshoven zullen sessie houden, bepalen. . . .

9. Wanneer door ziekte of andere onvermijdelijke toevallen, of wegens persoonlijk belang of familie-betrekking, in eene civiele zaak voor het Rondgaande Geregtshof een of meer der Landdrosten verhinderd zullen worden te zitten, zal het Hof, op verzoek van partijen, de zaak naar eene andere plaats mogen verwijzen, of anders een of meer Heemraden, Vrederegters of Procureurs mogen aanstellen, om met ten minste een der Landdrosten in de plaats van den afwezigen of onbevoegden Landdrost te zitten.

10. In crimineele zaken zal de Landdrost van het district, waar de zaak dient, of de Landdrost die door het Hof daartoe gekozen wordt, voorzitten. . . .

11. Het vonnis zal bij meerderheid van stemmen door het Hof worden uitgesproken.

12. Geen vonnis waardoor de doodstraf is uitgesproken, zal ten uitvoer worden gebragt, dan na bekomen *fiat* van den Staatspresident. . . .

13. Bij het overzenden der stukken zullen de Landdrosten een . . . rapport aan den President toezenden. . . .

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cases the State President shall be able to suspend the execution of the sentence and to bring the case in review before the Executive Council and pronounce judgment concerning the points at issue and give such orders as the Raad may deem fit. *

8. The State President shall fix the time and place for the sessions of the Circuit Court. . . .

9. When on account of sickness or other unavoidable occurrences, or by reason of personal interest or family relationship, in any civil case before the Circuit Court, one or more of the Landdrosts shall be prevented from sitting, the Court shall, at the request of the parties, be able to refer the case to another place, or shall appoint one or more Heemraden, Justices of the Peace or Attorneys, to take session with at least one of the Landdrosts, in the place of the absent or incompetent Landdrost.

10. In criminal cases the Landdrost of the district where the case comes up, or a Landdrost appointed for the purpose by the Court, shall preside. . . .

11. Sentence shall be pronounced by the Court by majority of votes.

12. No judgment by which the sentence of death is pronounced, shall be carried out except on receipt of the *fiat* of the State President. . . .

13. In transmitting the papers the Landdrosts shall send a . . . report to the President. . . .

14. Een Landdrost kan civiel en crimineel geprosequeerd worden, en mag zelve prosequeren voor de Lagere Hoven, mits in het Hof, waar Hij zelve Voorzitter is, een ander tot dien einde door den President worde aangesteld.

MENGELONDERWERPEN.

En wordt verder vastgesteld:

1. Dat het Romeinsch Hollandsch Regt als de Grondwet van dezen Staat aangenomen is, zal moeten worden verstaan te bedoelen, in zooverre als hetzelve in de Kaapkolonie in werking werd gevonden, tijdens de aanstelling van Englsche regters (judges) in de plaats van den voorheen bestaanden Raad van Justitie, en niet in te sluiten eenige nieuwe wetten en inrigtingen, plaatselijk of algemeen, die in Holland mogten zijn ingevoerd geworden, en niet gegrond zijn op, of tegenstrijdig met het Oud Romeinsch Hollandsch Regt: zooals in de tekstboeken verklaard van Voet, Van Leeuwen, Grotius, de Papegaaij, Merila, Lijbrecht, Van der Linden, Van der Reese, en authoriteiten door hen aangehaald.

2. [Tegenstrijdige raadsbesluiten herroepen.]

3. Deze Ordonnantie zal in werking komen en kracht van wet hebben, van af den 15 den dag van April eerstkomende.

Gegeven te Bloemfontein, den 12 den dag van Februarij 1856.

J. N. BOSHOF, *Staatspresident.*

(Bij order) J. W. SPRUIJT, *Fung. Gouv. Secr.*

Verz. van Besl. v. d. O.V.S. [1867 ?].

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14. Any Landdrost can be prosecuted civilly or criminally and may himself prosecute before the Lower Courts, provided that in the Court where he himself is chairman, another shall be appointed to that dignity by the President.

MISCELLANEOUS SUBJECTS.

And be it further laid down:

1. That the Roman-Dutch Law is adopted as the chief law of this State, shall be taken to mean, in so far as the same was found in operation in the Cape Colony at the time of the appointment of English judges in the place of the previously existing Court of Justice, and not to include any new laws or institutions, whether local or general, which may have been introduced in Holland and which are not based on, or are in conflict with the old Roman-Dutch Law as explained in the text-books of Voet, Van Leeuwen, Grotius, de Papegaaij, Merila, Lijbrecht, Van der Linden, Van der Reese, and the authorities quoted by them.

2. [Conflicting resolutions of the Raad are repealed.]

3. This Ordinance shall come into operation and have force of law from the 15th day of April next.

No. 163. ORDONNANTIE.[1] [15 Feb. 1856.]

No. 8, 1856.

Voor de oprigting van Municipale Collegien in de steden en dorpen van den Oranjevrijstaat,—vastgesteld en bepaald door den HEd. Volksraad van den Oranjevrijstaat, in deszelfs vergadering, gehouden te Bloemfontein, op den 15den dag van Februarij 1856.

[De Kaapsche Municipale Ordonnantie werd zeer nauw gevolgd, maar de kwalificaties van stemgerechtigden en leden werden aangegeven als volgt :]

12. Niemand zal als Commissaris van de Municipaliteit mogen gekozen worden, tenzij hij bezitter is van vast eigendom, tot de waarde van niet minder dan £200, binnen gemelde Municipaliteit gelegen, en zelf binnen de Municipaliteit woont.

* * * *

42. Ieder manspersoon die bewoner is van eenig huis, winkel, of kantoor, hetzij als eigenaar of huurder, van eene jaarlijksche waarde van £5[2] of daarboven, zal beschouwd worden een residerende huishouder te zijn, naar de meening van deze Ordonnantie, en zal bij elke bijeenkomst, als hij persoonlijk tegenwoordig is, één stem hebben, en niet meer, en in geval van eenige kwestie over het regt van stemmen bij eenige publieke bijeenkomst, zal de Voorzitter daarin beslissen.

Verz. van Besl. v. d. O.V.S. [1867 ?].

No. 163. ORDINANCE.[1] [15 Feb. 1856.]

No. 8, 1856.

For erecting Municipal Boards in the cities and towns of the Orange Free State,—affirmed and laid down by the Volksraad of the Orange Free State in its meeting held at Bloemfontein on the 15th day of February 1856.

[The Cape Municipal Ordinance was very closely followed, but the qualifications of electors and Commissioners were given as follows :]

12. No person shall be eligible for election as a Commissioner of any Municipality, unless he be a possessor of fixed property to the value of not less than £200, within the said Municipality, and resides within the Municipality.

* * *

42. Every male person who occupies any house, shop or office, whether as owner or tenant, of a yearly value of £5[2] or more, shall be considered to be a resident householder, within the meaning of this Ordinance, and shall, at each meeting, if he is present in person, have one vote, and no more, and in case of any dispute over the right of voting at any public meeting, the Chairman shall decide.

[1] This ordinance appears in a modified form in the 1892 compilation of laws. Its provisions were repealed by Ord. No. 6 of 1904, "The Municipal Corporations Ordinance." It should be compared with No. 55 and No. 132.

[2] Subsequently changed to £40.

No. 164. ORDONNANTIE. [13 Feb. 1857.]

No. 2, 1857.

Regulerende de kwalificatie en pligten van Jurymannen.

NADEMAAL het door Artikel No. 50 van de Constitutie,[1] en Artikel No. 2 [2] afdeeling "Belangende de regterlijke magt" van Ordonnantie No. 1, 1856, is bepaald, dat in de teregtstelling van crimineele zaken voor het Rondgaande Geregtshof van vereenigde Landdrosten, er eene Jury of Raad van gezworene mannen wezen zal, en er geene genoegzame wetsbepalingen zijn gemaakt omtrent de wijze of manier van procederen of behandeling van zoodanige crimineele zaken, en voornamelijk met betrekking tot de kwalificatie, pligten en regten van Jurymannen, zoo is het, dat de Raad bij dezen vastgesteld heeft, als volgt:

1. Dat, uitgezonderd de bepalingen in Artikel 2 en 3, hieronder volgende, ieder persoon boven den ouderdom van een en twintig, en onder den ouderdom van zestig jaren, en de wettige eigenaar zijnde van vaste eigendommen in het district alwaar hij zich met der woon bevindt, van de onbelaste waarde van Een Honderd Pond Sterling, of de huurder zijnde van eenig vast eigendom in het district voormeld gelegen, van eene jaarlijksche huur of waarde van twintig ponden sterling, en zijnde lidmaat van eenige erkende Christelijke kerk, gekwalificeerd en verpligt zijn zal als een juryman te dienen binnen de limieten van zoodanig district.

2. Dat de volgende personen verschoond zullen zijn van de jurydienst, namentlijk:

No. 164. ORDINANCE. [13 Feb. 1857.]

No. 2, 1857.

Regulating the qualifications and duties of Jurors.

WHEREAS it has been laid down by Article No. 50 of the Constitution [1] and Article No. 2 [2] of the subdivision, entitled "Regarding the judicial power" of Ordinance No. 1, 1856, that in the trial of criminal cases before the Circuit Court of united Landdrosts, there shall be a Jury or Council of Jurors; and whereas no sufficient legal provisions have been made regarding the manner or form of procedure, or the treatment of such criminal cases, and especially with respect to the qualification, duties and privileges of Jurymen; therefore the Raad has hereby enacted as follows:

1. That, except as provided below in Articles 2 and 3, every person above the age of twenty-one and below the age of sixty years, being the lawful owner of immovable property in the district where he resides of the unencumbered value of One Hundred Pounds Sterling, or the hirer of any immovable property situate in the said district of the yearly rent or value of Twenty Pounds Sterling, and being a member of any recognised Christian church, shall be qualified and required to act as juror within the limits of such district.

2. That the following persons shall be exempt from serving as jurors, viz.:

[1] *i.e.* the Constitution of 1854. *Cf.* No. 79.
[2] This should be Art. 3. See p. 307.

A. De leden van den HEd. Volksraad, de leden van den Uitvoerenden Raad, en de Heemraden.

B. Alle personen in de civiele dienst van dezen Staat, insluitende de veldcommandanten en veldcornetten.

C. Alle geregts—beambten, alsmede alle advocaten en procureurs van de rondgaande geregtshoven; en alle cipiers en bewaarders van gevangenhuizen.

D. Alle doctors, chirurgijns, en apothekers, die in praktijk zijn; en alle predikanten of leeraars van eenig godsdienstig genootschap.

3. Geen persoon, die na eene behoorlijke teregtstelling schuldig gevonden en gevonnisd zal zijn, tot het ondergaan van eenige straffe, waarmede eerloosheid gepaard is; of die door het vonnis van eenig competent geregtshof eerloos verklaard zal zijn, en welk vonnis niet zal zijn veranderd of vernietigd of een pardon verleend geworden, zal immer weder bevoegd zijn op eene teregtstelling als een jury te dienen. [Zoo ook niet alle personen die zich aan omkooperij of onbehoorlijke beinvloeding hebben schuldig gemaakt.]

4. [Eenig juryman die schuldig is aan eenige der misdrijven in het laatste artikel voorschreven, zal onderworpen zijn aan zulke straffe als hem door het Geregtshof zal opgelegd worden.]

5. [Strafbepaling voor eenig persoon die een juryman omkoopt of tracht om te koopen.]

6. Aangaande het opmaken der jurylijsten, het dagvaarden van jurymannen, en andere punten van praktijk, enz. zal worden gehandeld

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A. The members of the Volksraad, the members of the Executive Council, and the Heemraden.

B. All persons in the civil service of this State, including the Field-Commandants and the Field-Cornets.

C. All officers of justice, as also all advocates and attorneys of the circuit courts, and all jailers and warders of prison-houses.

D. All doctors, surgeons, and apothecaries in practice, and all ministers or pastors of any religious body.

3. No person, who after due trial shall have been found guilty and sentenced to undergo any punishment involving loss of honour; or who by the sentence of any competent court shall have been declared infamous, which sentence shall not have been changed or nullified, or a pardon not having been granted, shall ever again be competent to serve as a juror in any trial. [Nor any person who has been guilty of bribery, or has been unduly influenced in any other way.]

4. [Any juryman who is guilty of any of the offences described in the last preceding article, shall be subject to such punishment as the Court may impose upon him.]

5. [Punishment prescribed for any person who bribes or attempts to bribe any juryman.]

6. Regarding the making up of jury lists, the summoning of jurymen, and other points of practice, etc., the procedure

volgens de regulatien die daaromtrent door de bevoegde authoriteiten reeds zijn of nog zullen worden vastgesteld.

7. Deze Ordonnantie zal in werking komen en kracht van wet hebben van af den datum der publicatie.

Gegeven te Bloemfontein op den 13 den dag van Februarij 1857.

J. N. BOSHOF, *Staatspresident.*

(Bij order) J. W. SPRUIJT, *Gouv. Secr.*

GOUVERNEMENTSKANTOOR,
BLOEMFONTEIN, 31 *Maart* 1857.

Verz. van Besl. v. d. O.V.S. [1867 ?].

No. 165. DE OCCUPATIEWET.

ORD. NO. 2, 1866.[1]

De Volksraad,

Overwegende, dat het raadzaam is zonder verzuim voorloopige en tijdelijke voorzieningen te maken met betrekking tot het op de Basutos veroverde grondgebied, hetwelk aan den Oranjevrijstaat is gehecht bij proclamatie van den Kommandantgeneraal J. J. J. Fick, welke proclamatie door ZHEd. den Staatspresident met advies en consent van den Uitvoerenden Raad op 23 October 1865, en door den Volksraad op 7 Februarij 1866, is bekrachtigd,

Heeft besloten, gelijk hij besluit bij dezen:

ART. 1. Er worden langs de geheele nieuwe grensscheiding tusschen den Oranjevrijstaat en Basutoland, behoudens het bepaalde bij art. 8 en 9, voorloopig drie rijen plaatsen geïnspecteerd.

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shall be according to the regulations already made or still to be made by the competent authorities.

7. This Ordinance shall come into operation and have force of law from the date of publication thereof.

No. 165. THE OCCUPATION LAW.

ORD. NO. 2, 1866.[1]

The Volksraad,

Considering that it is advisable to make provisional and temporary arrangements without delay with regard to the territory conquered from the Basutos, which was joined to the Orange Free State by a proclamation of the Commandant General J. J. J. Fick, which proclamation was confirmed by the State President with the advice and consent of the Executive Council on 23rd October 1865, and by the Volksraad on 7th February 1866,

Has resolved, as it hereby resolves:

ART. 1. There shall be inspected provisionally three rows of farms along the whole of the new boundary between the Orange Free State and Basutoland, saving always the provisions laid down in arts. 8 and 9.

[1] Finally repealed by Procl. No. 3 of 1902 (A).

ART. 2. De in art. 1 bedoelde plaatsen worden geinspecteerd op eene gemiddelde grootte van 1500 morgen.

ART. 3. Aan die plaatsen, voor zoo ver zij grenzen aan de Oranjerivier, de Kornetspruit, de Caledonrivier of de Putisani, wordt langs deze rivieren geene meerdere breedte gegeven dan voor hare bestaanbaarheid noodig is.

ART. 4. Tot de inspectie dier plaatsen worden door den Staatspresident twee commissies benoemd, waarvan de eene hare werkzaamheden aanvagt aan Bamboesplaats en de andere aan het andere einde der nieuwe grensscheiding.

ART. 5. Elke commissie bestaat uit drie ledem, onder welke een Gouvernements-landmeter is, die tevens voorzitter is der commissie, bij welke hij wordt benoemd.

ART. 6. [Belooning van voorzitters en leden der commissies.]

ART. 7. De Staatspresident verleent aan elke commissie zoodanige bescherming, als noodig geoordeeld wordt om haar in staat te stellen hare werkzaamheden ongestoord te verrigten.

ART. 8. Tusschen Bamboesplaats, de Oranjerivier en de Kornetspruit, alsmede aan of nabij de bron der Putisani, wordt door de in art. 4 vermelde commissies een stuk grond geinspecteerd tot woonplaatsen voor kleurlingen, die bondgenooten van den Oranjevrijstaat zijn of zich onder het gezag van den Oranjevrijstaat verlangen te stellen.

ART. 2. The farms mentioned in art. 1 shall be inspected so as to be of an average size of 1500 morgen.

ART. 3. To those farms, in as far as they border on the Orange River, the Cornetspruit, the Caledon River or the Putisani, no greater breadth shall be allowed along these rivers than is necessary for the purposes of the said farms.

ART. 4. For inspecting those farms two commissioners shall be appointed by the State President, of which the one shall commence its duties at Bamboesplaats and the other at the other end of the new boundary.

ART. 5. Every commission shall consist of three members, of whom a Government land-surveyor shall be one, and he shall be chairman of the commission to which he shall be appointed.

ART. 6. [Payment of the chairman and members of each commission.]

ART. 7. The State President extends to each commission such protection as is deemed necessary, in order to enable it to perform its duties undisturbed.

ART. 8. Between Bamboesplaats, the Orange River and the Cornetspruit, as also at or near the source of the Putisani, there shall be inspected by the commission mentioned in art. 4 a piece of land as the dwelling-place of the coloured people who are allies of the Orange Free State, or who desire to place themselves under the authority of the Orange Free State,

ART. 9. [De commissies zonderen stukken grond af voor het aanleggen van dorpen.]

ART. 10. [De Commissies richten bakens op tot aanwijzing der scheidslijnen.]

ART. 11. [De voorzitter van elke commissie maakt schetsen en inspectie-rapporten.]

ART. 12. De voorzitter van elke commissie zendt de door hem gemaakte schetsen en inspectie-rapporten zoo spoedig mogelijk in aan den Gouvernementssecretaris, die daarbij op de gewone wijze grondbrieven doet uitvaardigen.

ART. 13. De in art 1. bedoelde plaatsen worden om niet uitgegeven onder de hierna te vermelden voorwaarden.

ART. 14–20. [Aan wien plaatsen toegekend zullen worden en de wijze van toekenning.]

ART. 21. Elke plaats moet door dengene, aan wien dezelve toegekend wordt, in persoon worden bewoond.

ART. 22. De bewoning vangt aan op eenen door den Staatspresident te bepalen dag, welke tijdig en zoo algemeen mogelijk wordt bekend gemaakt.

ART. 23. Hij, die verhinderd wordt om op den door den Staatspresident bepaalden dag met de bewoning eenen aanvang te maken, moet van dezen verlof verkrijgen om zulks later te doen.

ART. 24. Ieder, aan wien eene plaats wordt toegekend, moet daarop te allen tijde voorzien zijn van een rijpaard, zadel, toom, geweer, 200 kogels, 5 pond kruid en 500 dopjes of 12 vuursteenen.

ART. 9. [The commissions shall reserve tracts of land for laying out towns.]

ART. 10. [The commissions shall erect beacons to indicate the boundaries.]

ART. 11. [The chairman of each commission shall make maps and frame inspection reports.]

ART. 12. The chairman of each commission shall send the maps and the inspection-reports drawn up by him as soon as possible to the Government Secretary, who shall therefrom cause land deeds to be issued in the usual manner.

ART. 13. The farms mentioned in art. 1 shall be issued gratis on the conditions to be mentioned hereafter.

ART. 14–20. [To whom farms shall be granted and the manner of granting.]

ART. 21. Every farm must be occupied by the individual in person to whom the same is granted.

ART. 22. The occupation shall begin on a day to be fixed by the State President, which day shall be notified in time and as publicly as possible.

ART. 23. Any person who is prevented from beginning to occupy his farm on the day fixed by the State President must receive his permission to do so at a later date.

ART. 24. Every person to whom a farm is granted shall be provided on it at all times with a riding-horse, a saddle, bridle, rifle, 200 bullets, 5 pounds of gunpowder, and 500 caps or 12 flints.

ART. 25. Iedere eigenaar van eene plaats moet te allen tijde, voorzien van de toerusting, in art. 24 vermeld, gereed zijn om zoodanige burger—en kommandodienst te doen, als zijn veldkornet van hem vordert, of daartoe eenen aldus toegerusten bekwamen en door den veldkornet goedgekeurden blanken persoon als zijnen plaatsvervanger stellen.

ART. 26. Op dezelfde wijze is iedere eigenaar gehouden mede te werken aan de oprigting der in art. 42 vermelde forten.

ART. 27. Iedere eigenaar moet binnen zes maanden na den aanvang van de bewoning zijner plaats daarop een huis bouwen en voltooijen van minstens 20 voet lang en 10 voet breed.

ART. 28. Iedere eigenaar betaalt jaarlijks eene recognitie van 2 s. voor elke 100 morgen of eenig gedeelte daarvan.

ART. 29. [Iedere eigenaar betaalt £4 voor zijn grondbrief.]

ART. 30–31. [Over het transporteren der plaatsen.]

ART. 32–33. [Bij het niet nakomen van deze voorwaarden kan de Uitvoerende Raad de eigenaar zijn regt van eigendom ontnemen, doch eerst na hem over de zaak gehoord te hebben.]

ART. 34. [Zulk een plaats wordt dan opnieuw uitgegeven.]

ART. 35. [Omtrent betaling voor aangebragte verbeteringen op zulk een plaats.]

ART. 36. De eigenaren van gemiddeld elke 30 aan elkander grenzende plaatsen, door den Staatspresident aan te wijzen, kiezen op eenen door hem te bepalen dag uit hun midden eenen veldcornet.

ART. 25. Every owner of a farm shall at all times, provided with the equipment mentioned in art. 24, be ready to render such burgher and commando service as his Field-cornet may demand of him; or he shall give as his substitute for that purpose an able white person equipped as mentioned above and approved of by the Field-cornet.

ART. 26. In the same way every owner shall be obliged to co-operate in erecting the forts mentioned in art. 42.

ART. 27. Every owner shall, within six months after he commences to occupy his farm, build or complete thereon a house of at least 20 feet long and 10 feet broad.

ART. 28. Every owner shall pay annually an acknowledgment of 2 sh. for every 100 morgen or any part thereof.

ART. 29. [Every owner shall pay £4 for his land deed.]

ART. 30–31. [About the transfer of farms.]

ART. 32–33. [When these conditions are not fulfilled, the Executive Council may take away the owner's right to the property, but only after having heard him on the matter.]

ART. 34. [Such farm shall then be given out anew.]

ART. 35. [About payment for improvements made on such farm.]

ART. 36. The owners on an average of every 30 farms adjoining each other, as shall be indicated by the State President, shall elect, on a day to be fixed by him, a Field-cornet from their midst.

ART. 37. Op gelijke wijze kiezen de eigenaren der plaatsen, in 3 aan elkander grenzende veldkornetschappen gelegen eenen kommandant.

ART. 38. De gezamenlijke kommandanten en veldkornetten kiezen uit de eigenaren der in art. 1 vermelde plaatsen eenen kommandant-generaal, die zijne instructies van den Staatspresident ontvangt.

ART. 39. Iedere officier is stipte gehoorzaamheid verschuldigd aan degenen, die boven hem geplaatst zijn.

ART. 40. De kommandant-generaal en onder hem de kommandanten en veldkornetten zijn belast met de zorg voor de bescherming en veiligheid der grenslijn en der grensbewoners en geven de daartoe noodige bevelen.

ART. 41. De veldkornetten zijn gehouden elke maand eenmaal de eigenaren der plaatsen in hunne veldkornetschappen te inspecteren en zich te overtuigen, dat zij voorzien zijn van de uitrusting in art. 24 vermeld.

ART. 42. In elk veldkornetschap wordt door den kommandant in overleg met den veldkornet eene plek aangewezen, waar een fort wordt gebouwd, ten einde in tijden van gevaar te dienen tot beveiliging van leven en eigendom der grensbewoners.

ART. 43. De Uitvoerende Raad bepaalt, welke kleurlingen toegelaten worden hunne woonplaats te vestigen in de gronden, vermeld in art. 8.

ART. 44. De Uitvoerende Raad bepaalt, onder welke hoofden de in art. 43 vermelde kleurlingen geplaatst worden.

ART. 37. In a similar manner the owners of farms situated in three adjoining field-cornetcies shall elect a Commandant.

ART. 38. The Commandants and Field-cornets shall together elect, from amongst the owners of the farms mentioned in art. 1, a Commandant-General, who shall receive his instructions from the State President.

ART. 39. Every officer owes strict obedience to those placed above him.

ART. 40. The Commandant-General, and under him the Commandants and Field-cornets, are entrusted with the task of protecting and safeguarding the frontier and the people living on the frontier, and shall issue the commands necessary thereto.

ART. 41. The Field-cornets shall be obliged to inspect the owners of the farms in their field-cornetcies once every month, and to satisfy themselves that they are provided with the equipment mentioned in art. 24.

ART. 42. In every field-cornetcy a place shall be pointed out by the Commandant, advised by the Field-cornet, where a fort shall be built, to serve in times of danger as a protection of the lives and property of the inhabitants of the frontier.

ART. 43. The Executive Council shall decide which coloured persons shall be permitted to take up their abode on the lands mentioned in art. 8.

ART. 44. The Executive Council shall decide under which captains the coloured persons mentioned in art. 43 shall be placed.

ART. 45. Over al de kleurlingen in elk der in art. 8 vermelde stukken grond wordt door den Staatspresident een blanke persoon tot kommandant benoemd.

ART. 46. De kommandanten over de kleurlingen genieten een jaarlijksch inkomen, waarvan het bedrag door den Uitvoerenden Raad vastgesteld en uit eene op de kleurlingen te leggen jaarlijksche belasting gevonden wordt.

ART. 47. De hoegrootheid dier belasting wordt door den Uitvoerenden Raad bepaald.

ART. 48. De kleurlingen zijn aan de bevelen van den over hen gestelden kommandant stipte gehoorzaamheid verschuldigd.

ART. 49. De kleurlingen moeten te allen tijde gereed zijn om bij oproeping van hunne hoofden of van hunnen kommandant de grenzen tegen invallen of andere vijandelijke handelingen te verdedigen.

ART. 50. De Uitvoerende Raad heeft de magt kleurlingen, die niet voldoen aan de bij deze wet op hen gelegde verpligtingen, uit de in art. 8 vermelde stukken grond te doen verwijderen of te doen verdrijven.

ART. 51. De Uitvoerende Raad bepaalt, onder de jurisdictie der geregtshoven van welke districten de bewoners der in art. 1 en 8 vermelde plaatsen en gronden voorloopig beschouwd worden te behooren.

ART. 52. De bepalingen der algemeene wetten betreffende de administratie zijn op de bewoners der in art. 1 en 8 vermelde plaatsen en gronden niet toepasselijk, dan voor zoo ver de Uitvoerende Raad het noodig oordeelt dezelve op hen toepasselijk te verklaren.

ART. 45. Over all the coloured people in each of the pieces of country mentioned in art. 8 a white man shall be appointed as Commandant by the State President.

ART. 46. The Commandants placed over the coloured people shall receive an annual income, the amount of which shall be fixed by the Executive Council, and shall be paid from annual taxes to be levied on the coloured people.

ART. 47. The amount of such taxes shall be fixed by the Executive Council.

ART. 48. The coloured people owe strict obedience to the commands of the Commandant placed over them.

ART. 49. The coloured people shall be ready at all times, if they are called upon by their chiefs or by their Commandant, to defend the frontiers against invasion or other hostile action.

ART. 50. The Executive Council shall have the power to cause to be removed or expelled from the pieces of country mentioned in art. 8 any coloured persons who do not fulfil the obligations laid upon them by this law.

ART. 51. The Executive Council shall declare under which district courts of justice the occupants of the farms and lands mentioned in arts. 1 and 8 shall be considered to fall for the present.

ART. 52. The provisions of the general laws regarding the administration are not applicable to the occupants of the farms and lands mentioned in arts. 1 and 8, except in so far as the Executive Council shall deem it necessary to declare the same to be applicable.

ART. 53. De Uitvoerende Raad is belast met het vaststellen der instructies en het maken der Regulaties, welke noodig zijn tot de behoorlijke uitvoering van deze wet.

ART. 54. Deze wet wordt in de *Gouvernements Courant* afgekondigd en treedt acht dagen na die afkondiging in werking.

H. O. DREYER, *Voorzitter van den Volksraad.*
H. SIJBOUTS, *Secretaris.*

Verz. van Besl. v. d. O.V.S. [1867 ?].

No. 166. ORDONNANTIE. [23 Mei 1866.]

No. 3, 1866.

Bepalende volgens welke wetten en op welke wijze Molappo [1] en zijn volk als onderdanen van den Oranjevrijstaat voortaan zullen bestuurd worden.

ART. 1. Kapitein Molappo met zijn volk met inbegrip der onderhoorige Kapiteins, als genoemd bij art. 4 van het Vredestractaat, gesloten op 26 Maart 1866, zijn onderdanen van den Oranjevrijstaat.

ART. 2. De ambtenaar, welke onder het volk van Molappo in dat gedeelte der veroverde gronden, in art. 7 vermeld, zal worden geplaatst, zal den titel van Kommandant dragen en met de magt van Landdrost bekleed zijn, uitgezonderd waar ten aanzien van die magt bijzondere voorzieningen worden gemaakt.

ART. 3. De crimineele wetten van den Oranjevrijstaat zullen op hen

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ART. 53. The Executive Council is charged to draw up instructions and frame regulations which may be necessary for the proper carrying into effect of this law.

ART. 54. This law shall be published in the *Government Gazette*, and shall take effect eight days after such publication.

No. 166. ORDINANCE. [23 May 1866.]

No. 3, 1866.

To regulate according to which laws and in what manner Molappo [1] and his people shall henceforth be governed as subjects of the Orange Free State.

ART. 1. Captain Molappo and his people, including the subordinate Captains, as mentioned in art. 4 of the Treaty of Peace, concluded on 26th March 1866, are subjects of the Orange Free State.

ART. 2. The official to be placed among the people of Molappo in the part of the conquered territories mentioned in art. 7, shall bear the title of Commandant and shall be invested with the authority of a Landdrost, except where, with regard to that authority, special provisions are made.

ART. 3. The criminal laws of the Orange Free State shall

[1] The second son of Moshesh. In 1866, in the course of a war between his father and the Free State, he offered to surrender cattle and to become a Free State subject. In 1869 his reserve became British territory. See art. 6, p. 337.

van toepassing zijn, voor zoo ver de strafbepalingen daarin zijn opgegeven en overeenkomstig het gebruik kunnen worden ten uitvoer gebragt. In misdaden, welke volgens de wetten van den Staat met den dood strafbaar zijn, en ten aanzien van welke de toepassing dier straf niet in onbruik is geraakt, wordt een voorloopig onderzoek gehouden en aan den Staatsprocureur opgezonden, wanneer zijne instructien daaromtrent zullen moeten worden opgevolgd. De Kapitein Molappo zal echter verpligt zijn, om, wanneer door den Kommandant daartoe bevolen, de beschuldigden en de getuigen voor de beschuldiging en verdediging in eenige zaak, voor het Hof te doen verschijnen in plaats van door dagvaardingen daartoe verpligt te worden.

ART. 4. Kwestiën van civielen aard kunnen in de eerste instantie voor Molappo en zijn Raad worden gebragt, die dan daaromtrent beslissen zullen; partijen, die met hunne uitspraak ontevreden zijn, zullen het regt hebben zich daarover bij den Kommandant te beklagen, die alsdan de zaak op nieuw zal hooren, en dan als een Hof van billijkheid daarover zal beslissen, met dien verstande nogthans, dat Molappo en Raad in geen geval lijfstraffelijke uitspraken van toepassing zullen mogen maken.

ART. 5. Kapitein Molappo zal ter eeniger tijd verpligt zijn, wanneer daartoe aangevraagd door het Gouvernement, zoo vele manschappen te leveren als mogten worden vereischt, ten einde kommando-diensten of anderzins te doen.

ART. 6. Geen ondergeschikte van Kapitein Molappo zal het geoorloofd zijn, de gronden, aan hem ter woning toegekend, te mogen

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be applicable to them in so far as the punishments are prescribed therein and can be carried out in accordance with general custom. In the case of crimes which according to the laws of the State are punishable with death and with regard to which the execution of such punishment has not fallen into disuse, a preliminary examination shall be held and sent up to the State Attorney, whose instructions in the matter shall be complied with. Captain Molappo shall, however, be obliged, when commanded by the Commandant, to cause the accused persons and the witnesses for the prosecution and for the defence in a case to appear before the Court, instead of making it necessary to summon them.

ART. 4. Disputes of a civil nature may in the first instance be brought before Molappo and his Council, who shall then decide thereon; parties who are not satisfied with their judgment, shall have the right to make complaints thereon to the Commandant, who shall then hear the case anew and shall decide thereon as a Court of equity; provided, however, that Molappo and his Council shall not carry out sentences affecting the persons of individuals.

ART. 5. Captain Molappo shall at any time be obliged, on a request of the Government being made to him, to supply so many men as may be needed to render commando or other service.

ART. 6. No person subordinate to Captain Molappo shall be allowed to leave the lands assigned to him to live on,

verlaten, zonder voorzien te zijn van een gedrukte pas en door den ambtenaar, aldaar geplaatst zijnde; te zijn onderteekend; zullende voor elke pas een sixpence moeten worden betaald, en de overtreder dezer bepaling moge worden gestraft met niet meer dan 25 slagen of gevangenisstraf met harden arbeid, niet te bovengaande drie maanden.

ART. 7. Kapitein Molappo noch een zijner onderhoorige Kapiteins, noch anderen van zijn volk, zal het geoorloofd zijn eenigen Raad of vergadering van andere naburige stammen te mogen bijwonen, of toelaten, dat bij eenige Raadsvergadering van hen vreemde Kapiteins of anderen daarbij zullen mogen tegenwoordig zijn, zonder schriftelijk verlof van den Kommandant of ZHEd. den Staatspresident, op verbeurte eener boete van niet minder dan 5 en niet meer dan 10 beesten.

ART. 8. Ten einde Gouvernements onkosten te bestrijken, wordt bepaald en vastgesteld, dat op iedere hut, die bewoond wordt, door den eigenaar daarvan zal worden betaald 10 shillings per jaar, welke betaling zal moeten geschieden binnen eene maand van af primo Januarij 1867. Kapitein Molappo en de andere onderhoorige Kapiteinen zullen van deze oplaag uitgesloten zijn, doch zij zullen alle mogelijke hulp en bijstand verleenen voor de invordering van de hutbelasting, verschuldigd door hunne onderhoorigen, en indien zij in die hulp en bijstand nalatig blijven, of de orders, hun door den Kommandant te dien aanzien gegeven, niet opvolgen, zullen zij verantwoordelijk kunnen gemaakt worden voor de voldoening van het niet betaalde gedeelte van zoodanige belasting.

ART. 9. De Kommandant zal verpligt zijn een register te houden

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without being provided with a printed pass signed by the official stationed there, a sixpence being charged for every pass; and any one not complying with this provision may be punished with not more than 25 lashes or imprisonment with hard labour not exceeding three months.

ART. 7. It shall not be permitted to Molappo or any of his subordinate Captains, or any others of his people, to attend any Council or meeting of other neighbouring tribes; nor shall they allow strange Captains or others to be present at any of their Council meetings, without the written permission of the Commandant or the State President, on pain of forfeiting as a fine a sum of not less than 5 and not more than 10 oxen.

ART. 8. In order to defray Government expenses, it is affirmed and laid down, that on every hut occupied 10 shillings per year shall be paid by the owner thereof, which payment shall be made within one month from the 1st of January 1867. Captain Molappo and the other subordinate Captains shall be exempt from this contribution, but they shall render all possible help and assistance for the collection of the hut tax owing by their subordinates, and if they are negligent in rendering such help and assistance, or do not comply with the commands given by the Commandant in that respect, they shall be liable to be held responsible for the payment of such portion of the said tax as may remain unpaid.

ART. 9. The Commandant shall be obliged to keep a

van alle manspersonen, wonende in die gronden, alsmede van het getal der bewoonde hutten, en onder welke Kapiteins dezelve geplaatst zijn.

ART. 10. Geen blanke personen zullen zonder verlof van den President en Uitvoerenden Raad zich binnen de gronden, aan Molappo ter woning afgestaan, mogen vestigen, zullende zij na verkregen verlof dezulken, welke aldaar handel mogten willen drijven, eene behoorlijke licentie moeten betalen, gelijk staande met de bestaande wetten van het Land. Echter zullen geene dranklicentien kunnen worden uitgegeven.

ART. 11. Molappo noch eenige der onderhoorige Kapiteins of onderdanen, zal het veroorloofd zijn, om eenige kleurling of blanke persoon, van buiten inkomende, aan te nemen, of meer dan 24 uren te herbergen zonder verlof van den Kommandant, en zij zullen gehouden zijn kennis te geven aan den Kommandant van de aankomst van eenigen vreemdeling, binnen den bepaalden tijd van 24 uren, onder verbeurte bij nalatigheid van niet minder dan 2 en niet meer dan 10 beesten.

ART. 12. De Kommandant zal een dagboek houden van gelden door hem ontvangen en uitbetaald.

ART. 13. De Kommandant zal een Notulenboek houden van zaken, die voor hem zullen worden gebragt, met aanteekening zijner uitspraken.

ART. 14. De Kommandant zal verpligt zijn maandelijks aan ZHEd. den Staatspresident een schriftelijk rapport in te zenden van den toestand van zaken binnen zijne jurisdictie.

ART. 15. Molappo zal verpligt zijn, om alle gevraagde assistentie

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register of all male persons residing on those lands, as also of the number of huts occupied, specifying under which of the Captains the same are placed.

ART. 10. No white persons shall, without the permission of the President and the Executive Council, settle within the territory given to Molappo to reside in; and those who may wish to carry on trade there, shall, after having received permission, pay for a proper license, a sum equal to that which is prescribed by the existing laws. No liquor licenses shall, however, be issued.

ART. 11. It shall not be permitted to Molappo or any of the subordinate Captains or subjects, to take in or accommodate for more than 24 hours any coloured or white person coming from elsewhere, without the permission of the Commandant, and they shall be obliged to give notice to the Commandant of the arrival of any stranger within the defined period of 24 hours, on pain of forfeiting, in case of negligence, not less than 2 or more than 10 oxen.

ART. 12. The Commandant shall keep a daily list of moneys received and paid out by him.

ART. 13. The Commandant shall keep a minute-book of cases which may be brought before him, showing the judgments pronounced by him.

ART. 14. It shall be the duty of the Commandant to send in once a month in writing a report to the State President on the state of affairs within the limits of his jurisdiction.

ART. 15. Molappo shall be obliged to render any assistance

aan den Kommandant te verleenen tot het bewaren van rust en vrede binnen het grondgebied.

ART. 16. De Kommandant zal het regt hebben, om kleurling-kinderen, binnen de gronden behoorende, in te boeken tot hunne mondige jaren aan burgers van den staat wanneer daartoe door de ouders of naaste familie betrekkingen bij hem aanzoek wordt gedaan. Voor zulke inboeking zal door de partijen ten wiens voordeel dit geschiedt 10 schillings per hoofd voor Leges moeten worden betaald.

Van welke inboeking een behoorlijk register zal moeten worden gehouden en in elk geval eene copij aan den Landdrost van het district alwaar de dienstheer woonachtig is zal moeten worden opgezonden.

ART. 17. Aan de Nederduitsche Gereformeerde kerk alhier gevestigd zal het geoorloofd zijn eenen zendeling tot dat kerkgenootschap behoorende onder het volk van Molappo te plaatsen, zullende hetzelve echter verpligt zijn om alles wat tot het onderhoud van zulken leeraar behoort te moeten bekostigen, en wanneer bij het Gouvernement behoorlijk aanzoek tot dat einde zal worden gemaakt zal het Gouvernement zich gehouden achten een goed stuk gronds tot het oprigten van gebouwen en tuin zoowel als zaaigrond daartoe af te zonderen ten gebruike van het reeds genoemde einde.

ART. 18. De President met advies van den Uitvoerenden Raad zal het regt hebben van tijd tot tijd zulke regulatien te maken voor den Kommandant als naar omstandigheden mogten noodig bevonden worden.

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required of him by the Commandant for preserving quiet and peace within the territory.

ART. 16. The Commandant shall have the right to book-in (apprentice) coloured children belonging to the territory, till they shall become of age, with burghers of the State, when their parents or nearest relatives may request him to do so. For such booking-in a fee of 10 shillings per head shall be paid by the parties for whose benefit it is done.

Of such booking-in a proper register shall be kept, and in every case a copy shall be sent to the Landdrost of the district where the master resides.

ART. 17. The Dutch Reformed Church established here shall be permitted to send among the people of Molappo a missionary belonging to that Church, which Church shall, however, be obliged to finance everything pertaining to the support of such minister; and, if proper application be made to the Government for such grant, the Government shall consider itself authorised to reserve a good piece of land for erecting buildings and making gardens as well as for sowing-lands, to the purpose above-mentioned.

ART. 18. The President, with the advice of the Executive Council, shall have the right to make, from time to time, such regulations for the Commandant as may be found necessary according to circumstances.

ART. 19. Deze ordonnantie zal kracht van wet hebben acht dagen na de publicatie in de *Gouvernements Courant.*

Aldus vastgesteld in de zitting van den HEd. Volksraad op 23 Mei 1866.

De Voorzitter van den Volksraad,
G. J. DU TOIT.
De Secretaris,
H. SIJBOUTS.
Verz. van Besl. v. d. O.V.S. [1867 ?].

No. 167. DE WET OVER HET VOLK VAN PAULUS MOPELI.[1]
[1867.]

1. Kapitein Paulus Mopeli met zijn volk, met inbegrip der onderhoorige kapiteins, zijn onderdanen van den Oranjevrijstaat.

2. De ambtenaar, welke onder het volk van Paulus Mopeli in het grondgebied van Witzieshoek, als aan dezen afgegeven, ter bewoning door hem en zijn volk, wordt geplaatst, zal den titel van commandant dragen en met de macht van landdrost bekleed zijn, uitgezonderd waar ten aanzien van die macht bijzondere voorzieningen worden gemaakt; en hij zal verplicht zijn binnen dat grondgebied te wonen.

3–18. [De bepalingen voor Paulus Mopeli en zijn volk zijn precies zooals die voor Molappo bij artt. 3 tot 18 van Ord. No. 3, 1866.]

O.V.S. Wetboek, 1854–91, p. 270.

ART. 19. This ordinance shall have the force of law eight days after publication in the *Government Gazette.*

No. 167. THE LAW RELATING TO THE PEOPLE OF PAULUS MOPELI.[1] [1867.]

1. Captain Paulus Mopeli and his people, including the subordinate Captains, are subjects of the Orange Free State.

2. The official who is being placed among the people of Paulus Mopeli in the territory of Witzieshoek, granted to the said Paulus Mopeli to be occupied by him and his people, shall bear the title of Commandant and shall be invested with the authority of a Landdrost, except where, with respect to that authority, special provisions are made; and it shall be his duty to reside within that territory.

3–18. [The provisions with regard to Paulus Mopeli and his people are exactly like those made with regard to Molappo in arts. 3 to 18 of Ord. No. 3, 1866.]

[1] Mopeli was a brother of Moshesh. In 1866 he agreed to be taken over with his clan as subjects of the Free State. Unlike Molappo, he remained true to his promises, and received lands in the beautiful and fertile tract called Witzieshoek.

No. 168. DE WET BETREKKELIJK DE HOOGERE GERECHTSHOVEN.[1]

AFDEELING I.—SAMENSTELLING DER HOOGERE GERECHTSHOVEN.

1. De Hoogere Gerechtshoven van den Oranjevrijstaat zijn :
(A) Het Hoog Gerechtshof,
(B) De Rondgaande Gerechtshoven ;

Blijvende de gerechtshoven onder die namen bestaande ten tijde van het inwerkingtreden der bepalingen dezer wet voortbestaan, onderworpen aan deze bepalingen.

2. Er zullen drie leden van het Hoog Gerechtshof zijn, te weten: Een hoofdrechter en twee andere rechters.

3. De leden der rechterlijke macht kunnen niet tevens de betrekking van advokaat, procureur of notaris bekleeden, of eenig ander beroep uitoefenen.

4. [Leden moeten niet verwant zijn zonder dispensatie.]

5. [Kwalificaties van rechters.]

6. [Aanstelling van eenen rechter om tijdelijk te ageeren.]

7. Rechters van het Hoog Gerechtshof bekleeden hunne betrekking gedurende goed gedrag, kunnende zij enkel afgezet worden door den Volksraad, na gedaan onderzoek, op aanklachte van het Uitvoerend Gezag, doch de Staatspresident zal het recht hebben om eenen rechter

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No. 168. THE LAW RELATING TO THE HIGHER COURTS OF JUSTICE.[1]

DIVISION I.—CONSTITUTION OF THE HIGHER COURTS OF JUSTICE.

1. The Higher Courts of Justice of the Orange Free State are :
(A) The High Court of Justice;
(B) The Circuit Courts ;

And the Courts existing under those names at the time of the taking effect of the provisions of this law shall be continued, subject to the following regulations :

2. There shall be three members of the High Court, viz. : one chief justice and two other judges.

3. The members of the judicial authority can not at the same time practise as advocates, attorneys or notaries, or exercise any other profession.

4. [Members shall not be related to each other unless they receive a special dispensation.]

5. [Qualifications of judges.]

6. [Appointment of a judge to act temporarily.]

7. Judges of the High Court of Justice shall retain their offices during good behaviour, and they can be dismissed only by the Volksraad, after examination, on being accused by the Executive Power ; but the State President shall have the

[1] Repealed by Procl. No. 3 of 1902 (A). The High Court and the Circuit Court of judges were first set up by Ord. No. 2, 1876.

wegens wangedrag tijdelijk te suspendeeren, onderworpen aan de beslissing van den Volksraad.

8. [Eed der rechters.]

9. [Samenstelling van het Hoog Gerechtshof: te bestaan uit al de leden, behalve dat in geval van rivisie van de beslissing van één der rechters, het Hof bestan kan uit de twee overige leden, en dat in geval van afwezigheid enz. van één der rechters, de andere rechters een volledig Hof kunnen uitmaken.]

10. Het Rondgaande Gerechtshof bestaat uit één lid der rechterlijke macht.

AFDEELING II.—JURISDICTIE.

11. Het Hoog Gerechtshof is gevestigd te Bloemfontein, en deszelfs jurisdictie strekt zich uit over den geheelen Staat.

12. Het Hoog Gerechtshof is, als opperste rechtbank belast met het toezicht op de bedeeling van het recht in den geheelen staat, en met de zorg dat die bedeeling behoorlijk en onvertogen volgens wet plaats vinde.

13. Voor het Hoog Gerechtshof kunnen gebracht worden:

(A) [Alle applicaties voor arresten, injunctien, enz.]

(B) Alle civiele zaken hoegenaamd in de eerste instantie, waar de verweerder in het district Bloemfontein woont of schriftelijk zijne toestemming gegeven heeft dat de zaak voor het Hoog Gerechtshof kan worden gebracht; en totdat de Volksraad daaromtrent andere bepalingen wenschelijk en

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right to suspend any judge temporarily for bad behaviour, subject to the decision of the Volksraad.

8. [Oath of judges.]

9. [Composition of the High Court: to consist of all the members, except that in the case of a review of the judgment of one of the judges the Court shall consist of the other two members, and that in case of the absence, etc. of one of the judges, the others shall constitute a full court.]

10. The Circuit Court shall consist of one member of the judicial power.

DIVISION II.—JURISDICTION.

11. The High Court is established at Bloemfontein, and its jurisdiction shall extend over the whole State.

12. The High Court, being the supreme tribunal, is entrusted with the supervision of the administration of justice in the whole State, and with the care that that administration shall be carried out properly, fairly, and according to law.

13. Before the High Court can be brought:

(A) [All applications for arrest, injunctions, etc.]

(B) All civil cases whatever in the first instance, in which the defendant resides in the district of Bloemfontein, or has given his consent in writing to bring the case before the High Court; and, until the Volksraad shall deem other provisions therefor desirable and necessary, all cases origin-

noodzakelijk zal vinden, alle zaken ontstaande in het district Moroka die boven de jurisdictie van het hof van den landdrost of van landdrost en heemraden zijn ;

(C) Alle illiquide zaken waar er twee of meer verweerders in verschillende districten woonachtig zijn ; doch op aanzoek daartoe zal het Hoog Gerechtshof de zaak kunnen verwijzen naar het Rondgaand Gerechtshof betwelk, volgens het oordeel van het Hof, het meest geschikt voor de behandeling der zaak is ;

(D) Alle provisioneele zaken ; doch waar de verweerder woonachtig is in een district, niet zijnde het district van Bloemfontein, zal het hof op aanzoek daartoe de zaak kunnen óf uitstellen óf verwijzen naar het Rondgaand Gerechtshof van het district waar de verweerder woont, mits hij aantoont door beëedigde verklaringen dat hij waarschijnlijk een goede defensie zal hebben ;

(E) Alle provisioneele zaken waar er twee of meer verweerders in verschillende districten woonachtig zijn ; doch op aanzoek daartoe zal het Hoog Gerechtshof de zaak kunnen verwijzen naar het Rondgaand Gerechtshof, hetwelk volgens het oordeel van het hof het meest geschikt voor de behandeling der zaak is ;

(F) Zaken waarin eenig debiteur bij eene acte van schepen-

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ating in the district of Moroka, which are beyond the jurisdiction of the Landrost's Court or the Court of Landdrost and Heemraden.

(C) All illiquid cases in which there are two or more defendants who reside in different districts ; but on application being made the High Court shall be empowered to refer any such case to such Circuit Court as, in the opinion of the Court, is best suited to deal with the case.

(D) All provisional cases ; but when the defendant resides in any district, not being the district of Bloemfontein, the Court shall, on application being made, be empowered either to postpone the case, or to refer it to the Circuit Court of the district where the defendant resides, provided that he shall have indicated, by means of a deposition on oath, that he is likely to have a good defence.

(E) All provisional cases in which two or more defendants reside in different districts ; but, on application being made, the High Court shall be empowered to refer the case to such Circuit Court as, in the opinion of the Court, is best suited to deal with the case.

(F) Cases in which any debtor by a deed of mortgage

kennis of ander liquid document vastgoed gelegen in verschillende districten zal hebben verbonden ;

(G) Alle rivisien en appellen in civiele zaken van de Rondgaande en de Lagere Gerechtshoven ;

(H) Alle rivisien in crimineele zaken in de eerste instantie of in appel of revisie gediend hebbende voor de Rondgaande Gerechtshoven, en alle appellen en revisien in zaken in de eerste instantie gediend hebbende voor de Lagere Gerechtshoven ;

(I) Alle zaken of rechterlijke procedures welke verwezen mochten worden naar het Hoog Gerechtshof door een Rondgaand Gerechtshof of rechter in kamers.

14. [Order over proceskosten, enz., waar een geringe zaak voor dat Hof wordt gebracht.]

15. [Applicaties in crimineele zaken.]

16. [Het Hof kan zekere zaken verwijzen van het eene district naar het andere.]

17. [Uitgestrektheid van de jurisdictie van Rondgaande Gerechtshoven.]

18. Voor het Rondgaand Gerechtshof kunnen gebracht worden alle civiele en crimineele zaken . . . hetzij in de eerste instantie of in rivisie of appel van een lager gerechtshof, of van eenen commissaris van het Hoog Gerechtshof. [Crimineele zaken komen voor een rechter en een jury. Enz.]

19. [Verwijzing van crimineele zaken door het Rondgaand Gerechtshof naar een ander district.]

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or other liquid document shall have bound fixed property situated in various districts.

(G) All reviews and appeals in civil cases from the Circuit Court and the Lower Courts.

(H) All reviews of criminal cases which have come, in the first instance, or on appeal, or for review, before the Circuit Courts, and all appeals and reviews of cases which have come in the first instance before the Lower Courts.

(I) All cases and all points of judicial procedure which may be referred to the High Court by any Circuit Court or by a judge in chambers.

14. [Order for costs, etc. when a case of slight importance is brought before the High Court.]

15. [Applications in criminal cases.]

16. [The Court can refer certain cases from one district to another.]

17. [Area in which Circuit Courts may exercise jurisdiction.]

18. Before the Circuit Court may be brought all civil and criminal cases . . . whether in the first instance, or for review, or on appeal from a lower Court or from a Commissioner of the High Court. [Criminal cases shall be brought before a judge and a jury, etc.]

19. [A Circuit Court may refer criminal cases to another district.]

20. [Applicatien voor het Hof.]

AFDEELING III.—COMMISSARISSEN VAN HET HOOG GERECHTSHOF.

21. [Commissarissen kunnen applicaties behandelen.]
22. [Appèl tegen, en terzijdestelling van, orders van een commissaris.]

AFDEELING IV.—ZITTINGEN.

23–27. [Tijd, plaats en aantal der zittingen, enz.]

AFDEELING V.—OFFICIEREN EN HUNNE PLICHTEN.

28–47. [Plichten, enz. van registrateur, klerken, tolk, baljuw, enz.]

AFDEELING VI.—SLOTBEPALINGEN.

48. [Regulaties, en hoe zij worden vervaardigd.]

O.V.S. Wetboek, 1854–91, p. 21.

No. 169. DE WET BETREKKELIJK DE LAGERE GERECHTSHOVEN.[1]

AFDEELING I.—UITLEGGENDE BEPALINGEN.

1. Onder de lagere gerechtshoven worden voor de doeleinden dezer wet begrepen :
(A) De hoven van den landdrost ;
(B) De hoven van den landdrost en heemraden ;

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20. [Applications before the Court.]

DIVISION III.—COMMISSIONERS OF THE HIGH COURT.

21. [Commissioners may deal with applications.]
22. [Appeals against an order of any Commissioner, and setting aside the same.]

DIVISION IV.—SESSIONS.

23–27. [The time, place and number of sessions, etc.]

DIVISION V.—OFFICERS AND THEIR DUTIES.

28–47. [Duties, etc. of the registrar, clerks, interpreter, sheriff, etc.]

DIVISION VI.—FINAL REGULATIONS.

48. [Rules of Court, how to be framed.]

No. 169. THE LAW RELATING TO THE LOWER COURTS OF JUSTICE.[1]

DIVISION I.—EXPLANATORY REGULATIONS.

1. Under the Lower Courts shall be included for the purposes of this law :
(A) The Landdrost's Courts ;
(B) The Courts of Landdrost and Heemraden ;

[1] Superseded by Ord. No. 7, 1902, "The Magistrates' Courts Ordinance." *Cf.* Ord. No. 5, 1877, not printed.

(C) De hoven van den assistent-landdrost, en het hof van assistent-landdrost en heemraden ;

(D) De periodieke hoven van den landdrost.

2. De lagere gerechtshoven welke vóór het vaststellen van deze wet, onder de in het vorig artikel gemelde benamingen in bestaan waren, blijven voortbestaan, tenzij door den Volksraad daaromtrent anders wordt bepaald, onderworpen aan de bepalingen van deze wet.

3. [Als beambten worden ook beschouwd tijdelijke plaatsvervangers.]

4. [Zondagen en feestdagen worden niet begrepen als dagen.]

AFDEELING II.—HET LANDDROSTHOF.

5. In het landdrosthof neemt de landdrost alleen zitting.

6. [Zittingen van dit hof nemen plaats op de hoofdplaats van een district, en wel twee malen per week voor civiele zaken, en dagelijks voor crimineele zaken.]

7. [In geval van onbevoegdheid of afwezigheid van den landdrost, neemt de landdrostklerk diens plichten tijdelijk waar.]

8. [Of de Staatspresident kan iemand anders tijdelijk aanstellen.]

9. [Aanstelling per telegram zal wettig zijn.]

10. [Ambtseed of belofte.]

11. [Borgstelling van landdrosten.]

12. Behoudens eenige verdere macht aan den landdrost door deze of eenige andere wetsbepaling verleend of te worden verleend, en behoudens eenige beperking zijner macht daargesteld door wetsbepaling

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(C) The Assistant Landdrost's Courts, and the Court of Assistant Landdrost and Heemraden ;

(D) The Periodical Courts of the Landdrost.

2. The Lower Courts, which before the passing of this law were in existence under the names given in the last preceding article, shall be continued, unless the Volksraad shall decide otherwise, subject to the provisions of this law.

3. [Temporary substitutes shall also be regarded as officials.]

4. [Sundays and holidays are not regarded as days.]

DIVISION II.—THE LANDDROST'S COURT.

5. In the Landdrost's Court the Landdrost shall sit alone.

6. [Sessions of this Court shall take place in the chief town of a district, viz., twice a week for civil cases, and daily for criminal cases.]

7. [In case of incompetence or absence of the Landdrost, the Landdrost's Clerk shall fulfil his duties temporarily.]

8. [Or the State President may appoint another person temporarily.]

9. [Appointment by telegram shall be lawful.]

10. [Oath of office or promise.]

11. [Landdrosts to give security.]

12. Saving any further power given to the Landdrost by this or any other law or to be given hereafter, and saving any limitation of his power made by any law now existing or here-

thans bestaande of later te worden vastgesteld, oefent het landdrosthof burgerlijke rechtsspraak uit in civiele zaken in:

(A) Alle zaken niet van een liquiden aard waarin betrokken is een bedrag of waarde geen zeven-en-dertig pond en tien shillings sterling te boven gaande;

(B) Alle zaken van liquiden aard, waarin betrokken is een bedrag geen vijftig ponden sterling te boven gaande;

(C) Alle zaken om iemand tot het doen van iets te verplichten, in geval het niet doen daarvan door den eischer in zijne dagvaarding geschat wordt op een bedrag als alternatief niet te boven gaande zeven-en-dertig ponden en tien shillings sterling;

(D) Alle zaken tot ontruiming van eenig gebouw of grond ingesteld door den geregistreerden eigenaar daarvan of diens rechtverkrijgende, tegen eenig iemand die in het bezit is daarvan, of ingesteld door den verhuurder, mits de maandelijksche huur of huurwaarde van zoodanig gebouw of grond niet te boven gaat een bedrag van zeven pond en tien shillings sterling;

(E) Alle zaken van gijzeling ingevolge vonnis van het landdrosthof voor een tijdperk van een tot drie maanden.

13. [Bijzondere rechtspraak bij toestemming van partijen in zaken niet boven de jurisdictie van het hof van landdrost en heemraden.]

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after to be enacted, the Landdrost's Court shall pronounce judgment in civil cases, as follows:

(A) In all cases of an illiquid nature, in which is involved a sum or value not exceeding thirty-seven pounds ten shillings sterling.

(B) In all cases of a liquid nature, in which is involved a sum not exceeding fifty pounds sterling.

(C) In all cases which aim at compelling a person to do something, in case non-compliance is estimated by the plaintiff in his summons to give him a claim to a sum not exceeding thirty-seven pounds ten shillings sterling.

(D) In all cases for evicting any one from any building or land, commenced by the registered owner thereof, or by his attorney, against any person who is in occupation thereof, or commenced by the renter, provided that the monthly rent of such building or land be not higher than the sum of seven pounds ten shillings sterling.

(E) In all cases of imprisonment for debt, in terms of a sentence of the Landdrost's Court, for a period of from one to three months.

13. [Special jurisdiction, by agreement of parties, in cases not beyond the jurisdiction of the court of Landdrost and Heemraden.]

14. [Verwijzing naar het hof van landdrost en heemraden van zaken aldaar thuis hoorende.]

15. [Behoudens eenige verdere macht die den landdrost mag verleend worden, zal hij in crimineele zaken als straf kunnen opleggen :]

(A) Eene geldboete niet te boven gaande tien pond sterling; of bij gebreke van betaling gevangenzetting niet te boven gaande drie maanden.

(B) Gevangenzetting voor een tijd van niet langer dan drie maanden, met of zonder dwangarbeid, met of zonder schrale voeding, met of zonder slagen met een roede (lat) of geesel (kats) geen vijf-en-twintig te boven gaande, en met of zonder opsluiting in het blok of in boeien.

In geen geval zullen de lagere hoven rechtspraak kunnen uitoefenen in de grovere misdaden, zooals bijvoorbeeld : Meineed, Hoogverraad, Valsche Munt, Brandstichting, misdaden tegen het leven, Roof, Landsdieverij, . . . enzoovoorts.

16. [Bijzondere jurisdictie van het landdrosthof in crimineele zaken in geval van diefstal van groot of kleinvee.]

17. [Borgtocht tot bewaring van vrede kan door de landdrost geëischt worden.]

18. [Ambtseed of belofte van de landdrost.]

19. [Borgstelling van de landdrostklerk.]

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14. [Reference to the Court of Landdrost and Heemraden of cases falling more properly within their jurisdiction.]

15. [Saving any further power which may be extended to the Landdrost, he shall be entitled to inflict the following penalties in criminal cases :]

(A) A fine not exceeding ten pounds sterling; or, in default of payment, imprisonment for a period not exceeding three months.

(B) Imprisonment for a period not longer than three months, with or without hard labour, with or without low diet, with or without lashes with a cane or scourge, not exceeding twenty-five in number, and with or without confinement in stocks or in fetters.

In no case shall the Lower Courts be empowered to pronounce judgment for the more serious crimes, as for example : Perjury, High treason, Counterfeiting of coins, Arson, crimes against life, Plundering, Embezzlement, . . . and so forth.

16. [Special jurisdiction of the Landdrost's Court in cases of theft of cattle and the smaller kinds of stock.]

17. [Security for keeping the peace may be demanded by the Landdrost.]

18. [The Landdrost's oath of office or promise.]

19. [Security to be given by the Landdrost's Clerk.]

20. [De landdrostklerk is registrateur; hij moet ontvangsten verantwoorden.]
21. [Fungeerende landdrostklerk.]

AFDEELING III.—HET HOF VAN LANDDROST EN HEEMRADEN.

22. In het hof van landdrost en heemraden nemen zitting de landdrost, als voorzitter, en twee heemraden; hebbende elk der drie leden van het hof gelijke stem.
23. [Het hof neemt zitting op de hoofdplaats van het district eenmaal in de maand.]
24. Zes heemraden voor elk district worden door den Volksraad gekozen, ieder voor den tijd van twee achtereenvolgende jaren; [doch opengevallen plaatsen kunnen door de Staatspresident tijdelijk gevuld worden.]
25. [Kennisgeving van aanstellingen in de *Gouvernements Courant.*] De heemraden nemen zitting beurtelings in zoodanige orde als zij te samen met den landdrost na hunne aanstelling mochten overeenkomen.
26. [Heemraden die zitting moeten nemen worden door den registrateur aangeschreven.]
27. [Procedures bij afwezigheid van aangeschreven heemraden.]
28. [Afzetting door den Staatspresident van heemraden voor herhaald verzuim van tegenwoordigheid. Toelage.]
29. [Ambtseed of belofte van heemraden.]
30. De rechtspraak van het hof van landdrost en heemraden in

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20. [The Landdrost's Clerk shall be registrar of the Court. He must account for all receipts of money.]
21. [Acting Landdrost's Clerk.]

DIVISION III.—THE COURT OF LANDDROST AND HEEMRADEN.

22. In the Court of Landdrost and Heemraden shall take session the Landdrost, as chairman, and two Heemraden, each of the three members of the Court having an equal vote.
23. [The Court shall hold a session in the chief town of the district once a month.]
24. Six Heemraden for each district shall be chosen by the Volksraad, each for the period of two successive years; [but vacancies may be filled temporarily by the State President.]
25. [Notification of appointments in the *Government Gazette.*] The Heemraden shall take session in turn in such order as they shall agree upon with the Landdrost after their appointment.
26. [Heemraden who are to take session shall be notified by the registrar.]
27. [Procedure in the case of any Heemraad being absent after having been notified.]
28. [Dismissal by the State President of any Heemraad who repeatedly fails to attend. Payment of Heemraden.]
29. [Oath of office or promise of Heemraden.]
30. The jurisdiction of the Court of Landdrost and Heem-

civiele zaken is zooals bepaald door het twaalfde artikel dezer wet, gewijzigd door in plaats van de geldsbedragen daarin genoemd te lezen het dubbele van die bedragen, zullende dit hof geen jurisdictie hebben in zaken bij het landdrosthof te huis behoorende.

31. De rechtspraak van het hof van landdrost en heemraden in crimineele zaken is zooals bepaald door de vijftiende en zeventiende artikelen dezer wet, gewijzigd door in plaats van eenig getal daarin genoemd, het dubbele van het getal te lezen, uitgezonderd, dat dit hof, wat het toedienen van slagen betreft, geene meerdere jurisdictie dan het landdrosthof hebben zal.

32. [Verwijzing van zaken naar het landdrosthof.]

33. [Verdaging, doch geen uitstel, van crimineele zaken in dit hof toegelaten.]

34. [Landdrostklerk zal registrateur zijn.]

AFDEELING IV.—HET HOF VAN DEN ASSISTENT-LANDDROST EN VAN ASSISTENT-LANDDROST EN HEEMRADEN.

35-41. [Het hof van den assistent-landdrost heeft gelijke jurisdictie met het landdrosthof, en het hof van assistent-landdrost en 2 heemraden heeft gelijke jurisdictie met het hof van landdrost en heemraden; maar zij oefenen hun functie uit alleen in de wijk waarin het dorp gelegen is alwaar de assistent-landdrost zitting houdt.]

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raden in civil cases shall be, as is laid down in the twelfth article of this law, modified by reading, instead of the sums of money mentioned therein, twice the amount of those sums; and this Court shall have no jurisdiction in cases falling within the jurisdiction of the Landdrost's Court.

31. The jurisdiction of the Court of Landdrost and Heemraden in criminal cases shall be as is laid down in the fifteenth and seventeenth articles of this law, modified by reading, instead of any number mentioned therein, twice the amount of that number, with the exception that this Court shall, as regards the imposing of lashes, have no higher jurisdiction than the Landdrost's Court.

32. [Cases properly belonging to the Court of the Landdrost shall be referred to him.]

33. [Adjournment, but no postponement of criminal cases, shall be permitted in this Court.]

34. [The Landdrost's Clerk shall be registrar.]

DIVISION IV.—THE COURTS OF THE ASSISTANT LANDDROST AND OF ASSISTANT LANDDROST AND HEEMRADEN.

35-41. [The Court of the Assistant Landdrost shall have equal jurisdiction with the Landdrost's Court, and the Court of Assistant Landdrost and 2 Heemraden shall have equal jurisdiction with the Court of Landdrost and Heemraden; but each of these Courts shall exercise its functions only in the ward in which is situated the village where the Assistant Landdrost holds his sessions.]

AFDEELING V.—HET PERIODIEK HOF.

42–48. [Te worden gehouden door den landdrost van het district, of door iemand anders door den President benoemd, en wel vier keeren in het jaar op elk der dorpen, Lindley, Brandfort, Dewetsdorp, Reddersburg, Edenburg, Frankfort, Vredefort, Zastron, Senekal, Ventersburg, Bultfontein en Parijs.]

[Enz.]

O.V.S. Wetboek, 1854–91, p. 59.

DIVISION V.—THE PERIODICAL COURT.

42–48. [To be held by the Landdrost of the district, or by some other person appointed by the President, four times a year, at each of the villages of Lindley, Brandfort, Dewetsdorp, Reddersburg, Edenburg, Frankfort, Vredefort, Zastron, Senekal, Ventersburg, Bultfontein, and Parijs.]

[Etc.]

No. 170. THE CONVENTION OF ALIWAL NORTH.

[12 Feb. 1869.]

[In 1867 during a war between the Free State and the Basutos, Moshesh, who had been driven from one stronghold after another and whose power was on the point of being finally broken, sent urgent entreaties to the High Commissioner requesting to be taken over with his people as British subjects. Basutoland was consequently declared British territory, and this document was drawn up to establish the boundaries and to agree on other points. *Cf.* C. of G. Hope Act No. 12 of 1871, p. 61.]

His Excellency Sir PHILIP EDMOND WODEHOUSE; . . . Governor of the Colony of the Cape of Good Hope, Her Britannic Majesty's High Commissioner for the Affairs of South Africa, etc. etc. etc., acting on behalf, and in the name, of the Government of Her Britannic Majesty, on the one part;

And JOHANNES HENDRICUS BRAND, Esq., President of the Orange Free State, HENDRIK ANTONIE LODEWYK HAMELBERG, Esq., CORNELIUS JANSE DE VILLIERS, Esq., JACOBUS JOHANNES VENTER, Esq., and ANDRIES JACOBUS BESTER, Esq., Members of the Volksraad of the Orange Free State, appointed as Commissioners by, and acting on behalf, and in the name of, the Government of the Orange Free State, on the other part;

Having met at Aliwal North, in the Colony of the Cape of Good Hope, in South Africa, for the purpose of negotiating about all pending questions with regard to the Basuto affairs, have agreed, as they hereby agree:

ART. 1. The boundary line between Basutoland, forming part of the British Empire by virtue of the proclamation of his Excellency the High Commissioner of Her Britannic

Majesty, dated 12th March 1868, and the Orange Free State, shall, subject to the provisions contained in the 6th Article hereof, be as follows: From the junction of the Cornetspruit with the Orange River, along the centre of the former to the point nearest to Olifantsbeen; from that point to Olifantsbeen; from Olifantsbeen to the southern point of Langberg; along the top of Langberg to its north-western extremity; from thence to the eastern point of Jammerberg: along the top of Jammerberg to its north-western extremity; from thence, by a prolongation of the same, to the Caledon River; along the centre of the Caledon River to where the Putisani falls into it; along the centre of the Putisani to its source in the Drakensberg; from thence along the Drakensberg.

ART. 2. The boundary line mentioned in Art. 1 shall be marked off, and proper beacons shall be erected along the same without delay as far as may be deemed necessary, by two or more Commissioners, to be appointed respectively by his Excellency the High Commissioner and the President of the Orange Free State, in the presence of two land surveyors, who shall be appointed in the same manner, and who shall frame two similar sketches of the said boundary line or such part of the same as shall be marked off, to be signed by them and by the Commissioners aforesaid, one to be transmitted to his Excellency the High Commissioner, and one to the President of the Orange Free State.

ART. 3. The Government of the Orange Free State hereby acknowledges the Basutos domiciled on the eastern side of the boundary line mentioned in Art. 1 to be British subjects.

ART. 4. All natives who have been allowed or permitted by the Government of the Orange Free State to establish themselves on the Free State side of the boundary line mentioned in Art. 1 are hereby acknowledged to be subjects of the Orange Free State.

ART. 5. Such Basutos, not falling within the terms of Art. 4 or Art. 7, as at present live on the western side of the boundary line mentioned in Art. 1, shall be allowed to remain on the said side until the 31st day of July 1869, in order to enable them to reap and remove their crops; and after the said day, unless specially permitted by the Government of the Orange Free State to remain, shall be obliged to quit the territory of the said State. Such of them as may fail to comply herewith may be expelled by such means as the Government of the Orange Free State may think fit to adopt for that purpose.

ART. 6. Upon the written request of the Chief Molapo to the Volksraad of the Orange Free State for himself and his people to be relieved from their subjection to that State, and to become British subjects, the Volksraad shall grant the said

request; whereupon the land between the Putisani, the Caledon River, and the Drakensberg shall cease to form part of the territory of the Orange Free State; and the boundary line mentioned in Art. 1, instead of running along the centre of the Caledon River to where the Putisani falls into it, along the centre of the Putisani to its source in the Drakensberg, and from thence along the Drakensberg, shall thereafter be taken to run along the centre of the Caledon River to its source in the Drakensberg.

ART. 7. The French missionary establishments, Mequatling and Mabolele, shall be maintained for the reasonable purposes of the mission, and the missionaries and natives residing on them shall be subject to such regulations as shall from time to time be made by the Government of the Orange Free State for the proper management of the same; and 1,500 morgen of land, or such addition of ground as the Volksraad of the said State may consider necessary and practicable, shall be assigned to each of the said establishments. The French Missionary Society, however, or their representatives, shall be entitled at any time to give them up as such, and to dispose of the same should they consider it advisable to do so.

ART. 8. There shall be free intercourse, personal and commercial, between the white inhabitants residing in the Orange Free State on the one side, and Basutoland on the other side, subject to such laws and regulations now in force or to become in force in the two countries respectively.

ART. 9. No natives residing in Basutoland shall be allowed to enter or pass through the territory of the Orange Free State, and no natives residing in the Orange Free State shall be allowed to enter or pass through Basutoland, otherwise than in conformity with such conditions and regulations as are now in force or may hereafter be enacted by the Volksraad of the Orange Free State, and by or in the name of the British Government respectively.

ART. 10. It is stipulated between the two contracting parties that from both sides criminals shall be delivered, upon the terms which shall be agreed upon hereafter, between the Government of Her Britannic Majesty on the one part, and the Government of the Orange Free State on the other part, and which shall constitute the subject of a special convention, as soon as the Government of Basutoland shall have been constituted.

ART. 11. It is stipulated between the two contracting parties that the manner in which thefts of cattle and other property are to be proved, the manner in which the spoor of stolen cattle is to be traced, the manner in which compensation for thefts is to be claimed and to be obtained, and all other

matters connected therewith, shall form the subject of a separate agreement, to be entered into from time to time between the Government of Her Britannic Majesty and the Government of the Orange Free State, or such Commissioners as may be appointed by them for the said purpose.

ART. 12. His Excellency the High Commissioner agrees to submit to arbitration the claim of the Orange Free State to compensation for thefts committed and other damage done by the Basutos to the inhabitants of the Orange Free State, and the claim of the Basutos to like compensation since the date of the proclamation of his Excellency the High Commissioner, by which the Basutos have become British subjects, should the Volksraad of the Orange Free State desire such arbitration.

ART. 13. In the same manner his Excellency the High Commissioner agrees to arbitration with regard to the claim of the Orange Free State to compensation for the abandonment of the land situate between the boundary line mentioned in Art. 1 of the Treaty of Peace between the Orange Free State and the Chief Moshesh, dated 3rd April 1866, and that mentioned in Art. 1 of the present Convention, and in the case provided for by Art. 6 for the abandonment of the land situate between the Putisani, the Caledon River, and the Drakensberg.

ART. 14. Nothing herein contained shall be construed to set aside or invalidate the Convention entered into on the 23rd February 1854, between Sir George Russel Clerk, Her Britannic Majesty's Special Commissioner, and the representatives delegated by the inhabitants of the Orange River Territory, nor any part of the same, nor shall the Proclamation of his Excellency the High Commissioner, dated 12th March 1868, be held to have been a violation of said Convention.

ART. 15. Nothing in the preceding Articles contained shall be held to prevent the acceptance by the Volksraad of the Orange Free State of the proposals made to the Commissioners of the said State by his Excellency the High Commissioner on the 5th day of February 1869, as the same are set forth in the schedule hereto annexed. And if such proposals shall be accepted by the said Volksraad, then the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, and 13th of the preceding Articles shall be deemed to have been cancelled, and the several Articles contained in the said proposals shall be taken to be Articles of this Convention.

ART. 16. The present Convention, subject to the confirmation and ratification of the Government of Her Britannic Majesty on the one part, and of the Government of the Orange Free State on the other part, shall be carried immediately into execution, without waiting for the exchange of ratifications

which shall take place in Cape Town, in the Colony of the Cape of Good Hope, within six months from this date.

Thus done and signed at Aliwal North, in the Colony of the Cape of Good Hope, this 12th day of February, in the year of our Lord One Thousand Eight Hundred and Sixty-nine.

(Signed) P. E. WODEHOUSE.
J. H. BRAND.
H. A. L. HAMELBERG.
C. J. A. DE VILLIERS.
J. J. VENTER.
A. J. BESTER.

SCHEDULE.

1. The border between the Free State and Basutoland shall be that recognised before the war of 1865.

2. All persons to whom the Government of the Free State shall, before the 1st day of April 1868, have sold or granted farms lying between the line in the preceding article mentioned, and the line described in a letter from the High Commissioner to the President, of the 14th April 1868, and who shall have complied with the conditions of the sale or grant, shall, subject to the stipulations herein-after contained, receive titles for the same from the British Government. All instalments remaining under the conditions of sale shall be paid to the Free State.

3. It shall be open to the British Government in any case in which special circumstances may render it necessary to do so, to withhold the title and resume the possession of any such farm, on condition of granting to the purchaser or grantee a farm of equal value or compensation in money.

4. All the said farms that have become forfeited for non-fulfilment of the conditions of sale or grant shall revert to the British Government, and any such forfeited farms shall be available for the purpose of the preceding Article; and such of the said farms as shall not be applied to such purposes shall be sold, and of the proceeds of sale two-thirds shall be paid to the Government of the Free State.

5. The obligation of personal residence on the part of the purchaser or grantee or his substitute shall be abolished, and the quitrent payable for every such farm shall be at the rate of five pounds per annum for each thousand morgen.

6. The British Government shall, in consideration of the above-stated arrangement, pay to the Government of the Free State, over and above all sums accruing under the preceding Articles, the sum of fifty thousand pounds sterling on or before the day of next; and in default of such payment, and until the same shall be made,

pay annually the sum of three thousand pounds, commencing from the day on which the first payment of quitrent shall become due under the preceding Article.

(Signed) P. E. WODEHOUSE.

5th February 1869.

Subject to the regulations to be hereafter made, it is agreed :

1. Whenever the spoor of stolen cattle or horses is traced across the boundary line to Basutoland, the officer of the British Government stationed nearest to the place where the theft was committed, shall, upon receiving report thereof, be bound to aid the owner of the stolen property, or the person acting on his behalf, in tracing the spoor until the stolen cattle or horses are discovered in Basutoland, or until the spoor is lost, and further to give every aid and assistance which may lead to the discovery and punishment of the thief, and the recovery and restitution of the stolen property. Information shall be given by the Agent of the High Commissioner from time to time to the authorities of the Orange Free State of the names and place of residence of the officers on the border.

2. If the spoor of any stolen cattle or horses shall be traced across the boundary line to the Orange Free State, it shall be reported to the nearest field-cornet of the Orange Free State, who shall be bound to afford every assistance in tracing the spoor and discovering and apprehending the thief, in order that he may be dealt with according to law, and that the stolen property may be recovered and restored.

(Signed) P. E. WODEHOUSE.
J. H. BRAND.
H. A. L. HAMELBERG.
C. J. DE VILLIERS.
J. J. VENTER.
A. J. BESTER.

ALIWAL NORTH, *12th February* 1869.

Parl. Papers, S. Africa, C.O. (42), 1884, p. 96.

No. 171. SETTLEMENT OF THE DIAMOND FIELDS DISPUTE.

[In 1866 and the years following, diamonds were discovered by Europeans along the banks of the Orange River, the Modder, and the Vaal, not far from the points where these rivers meet. Some of the land on which digging was soon commenced fell within Free State territory, but parts were also claimed by the South African Republic. A third claimant was Waterboer, a Griqua chief. The claims were submitted to arbitration. The Orange Free State declined to present its case before the court, holding that its claim was incontestable, as the territory fell within boundaries previously agreed upon by the

British authorities. The case of the other Republic was badly presented, and the result was that the claims of Waterboer were established. He was immediately taken over with his people as British subjects, his territory becoming a Crown colony under the name of Griqualand West. A few years later actions were brought before court by two sets of claimants to certain farms in Griqualand. One set based their claims on grants made by Waterboer, another set on grants made by the Orange Free State. The judge rejected Waterboer's grants; whereupon the President of the Free State went to England to renew the claims of his country. The present document shows the agreement arrived at.]

LONDON, *July* 13, 1876.

Memorandum of Agreement between the Right Honourable the EARL OF CARNARVON, Her Majesty's Secretary of State for the Colonies, representing Her Majesty's Government, and his Honour PRESIDENT BRAND, for the Orange Free State, who, having met and fully communicated with each other for the purpose of arriving at an understanding with regard to the Frontier Line between the British and the Orange Free State Territories, and as to the sum to be paid by Her Majesty's Government to the Orange Free State in full settlement of all claims with respect to the Diamond Fields and the question of Sovereignty over the lands hitherto in dispute, hereby agree as follows:

1. The frontier shall be known and recognised hereafter (subject to the provisions in paragraph No. 2) by a line drawn from Rama (Fountain), passing through David's Graf (close above the junction of the Riet and Modder rivers) to the beacon standing on Tartantal Kop (and marked by De Villiers on the map referred to hereafter), thence by a straight line at right angles to the line from David's Graf to the summit of Platberg, and from the point where the two lines join, thence to the summit of Platberg, thence in a straight line to the point marked G on the said map, on the River Vaal, including the whole of the places known as the Diamond Fields.

2. The boundary line given shall be drawn so as to leave within the Free State territory the farm belonging to Gideon Joubert, and the four farms occupied by Commandant Dolf Erasmus, according to the boundaries of the said farms as registered in the Registry of Deeds Office at Bloemfontein, on the 27th October 1871, but verified and certified by examination, and by marking of beacons, to be made on the spot by two experts, approved by the Right Honourable the Earl of Carnarvon and his Honour President Brand.

3. The map now in the hands of the Right Honourable the Earl of Carnarvon, drawn by Mr. Jonas de Villiers, of the Free State, and signed in duplicate by the Right Honourable

the Earl of Carnarvon and his Honour President Brand, shows the line of boundary as herein set forth. But it is admitted that this map is to be verified and approved on the spot by the experts herein referred to, who will mark out the line of boundary by beacons, and make out two copies of the chart, and sign the same, which is to be completed within six months, unless prevented by unforeseen circumstances, or sooner if possible.

4. The amount to be paid by Her Majesty's Government on the due fulfilment and carrying out of the details of this agreement is hereby fixed at the sum of 90,000*l.* sterling, payable as follows: 20,000*l.* payable at Bloemfontein on the completion of the surveys and settlement of the boundaries by beacons in bills drawn by the Treasurer-General of the Orange Free State upon Her Majesty's Government in London at sixty days after sight, and the remainder (70,000*l.* sterling) by bills equal to cash in London on the completion of the documents exchanged there.

5. The Right Honourable the Earl of Carnarvon and his Honour President Brand hereby express their cordial satisfaction with the foregoing arrangement as a just and fair settlement in full of the question referred to herein and heretofore in dispute; and all grounds for controversy now being removed, the Right Honourable the Earl of Carnarvon and his Honour President Brand, for themselves and for Her Majesty's Government and for the Orange Free State, agree to seek, by friendly co-operation hereafter, all that can advance the common interests of their respective countries.

(Signed) CARNARVON.
J. H. BRAND.

In the presence of—
(Signed) DONALD CURRIE.
DONOUGHMORE.

LONDON, *July* 13, 1876.

Further Memorandum of Agreement between the Right Honourable the EARL OF CARNARVON, for Her Majesty's Government, and PRESIDENT BRAND, on behalf of the Orange Free State respectively:

The questions at issue between Her Majesty's Government and the Orange Free State having been arranged this day, as set forth in the Memorandum of Agreement to which this is attached,—

The Right Honourable the Earl of Carnarvon has proposed to President Brand, as an additional proof of his good feeling towards the Orange Free State, and of his desire for its material

prosperity, that if, within five years from this date, the Orange Free State shall establish a line of railway to connect with the Natal Railway, or any line of railway which the Cape Colony may make, then and in such case Her Majesty's Government will pay to the Orange Free State the sum of 15,000*l.* sterling, without any further condition than that this amount so payable is to be employed in the construction of the line of railway referred to within the territory of the Orange Free State;

And President Brand, fully recognising in this offer the friendly disposition of Her Majesty's Government towards the Orange Free State, but not feeling himself authorised to decide in this matter, seeing that the subject of railways rests entirely with the Volksraad of the Orange Free State, accepts the same in the spirit in which the Right Honourable the Earl of Carnarvon has made it, subject to the approval of the Volksraad, to whom the President will submit the proposal, and obtain their decision, within three months after his arrival at Bloemfontein, and communicate the same to the Right Honourable the Earl of Carnarvon without delay.

(Signed) CARNARVON.
J. H. BRAND.

In the presence of—
(Signed) DONALD CURRIE.
DONOUGHMORE.

Parl. Papers, S. Africa, C.O. (42), 1884, p. 108.

No. 172. ANNEXATION OF THE ORANGE FREE STATE. [24 May 1900.]

PROCLAMATION.

WHEREAS certain territories in South Africa heretofore known as the Orange Free State, have been conquered by Her Majesty's Forces, and it has seemed expedient to Her Majesty that the said territories should be annexed to, and should henceforth form part of Her Majesty's dominions, and that I should provisionally, and until Her Majesty's pleasure is more fully known, be appointed Administrator of the said territories with power to take all such measures and to make and enforce such laws as I may deem necessary for the peace, order and good government of the said territories;

Now, Therefore,

I, Frederick Sleigh, Baron Roberts of Kandahar, K.P. [etc.], by Her Majesty's command, and in virtue of the power and authority conferred upon me in that behalf by Her Majesty's Royal Commission, dated the 21st day of May 1900, and in accordance with Her Majesty's instructions thereby and other-

wise signified to me, do proclaim and make known that, from and after the publication hereof, the territories known as the Orange Free State are annexed to and form part of Her Majesty's dominions, and that, provisionally and until Her Majesty's pleasure is fully declared, the said territories will be administered by me with such powers as aforesaid.

Her Majesty is pleased to direct that the new territories shall henceforth be known as the Orange River Colony.

GOD SAVE THE QUEEN.

Given under my hand and seal at the Headquarters of the Army in South Africa, Camp South of the Vaal River in the said territories, this 24th day of May in the year of our Lord 1900.

ROBERTS, *Field-Marshal, Commanding-in-Chief Her Majesty's Forces in South Africa.*

Laws of the O.R.C., 1900–6, p. 291.

No. 173. THE VEREENIGING PEACE TREATY.

[31 May 1902.]

General LORD KITCHENER of Khartoum, Commanding-in-Chief, and His Excellency Lord MILNER, High Commissioner, on behalf of the British Government,

AND

Messrs. S. W. BURGER, F. W. REITZ, LOUIS BOTHA, J. H. DE LA REY, L. J. MEYER, and J. C. KROGH, acting as the Government of the South African Republic,

AND

Messrs. W. J. C. BREBNER, C. R. DE WET, J. B. M. HERTZOG, and C. H. OLIVIER, acting as the Government of the Orange Free State,

On behalf of their respective Burghers,

Desirous to terminate the present hostilities, agree on the following Articles:

1. The Burgher Forces in the field will forthwith lay down their arms, handing over all guns, rifles, and munitions of war, in their possession or under their control, and desist from any further resistance to the authority of His Majesty King Edward VII., whom they recognise as their lawful Sovereign.

The manner and details of this surrender will be arranged between Lord Kitchener and Commandant-General Botha, Assistant Commandant-General De La Rey, and Chief Commandant De Wet.

2. Burghers in the field outside the limits of the Transvaal

and Orange River Colony, and all prisoners of war at present outside South Africa, who are burghers, will, on duly declaring their acceptance of the position of subjects of His Majesty King Edward VII., be gradually brought back to their homes as soon as transport can be provided and their means of subsistence ensured.

3. The burghers so surrendering or so returning will not be deprived of their personal liberty, or their property.

4. No proceedings, civil or criminal, will be taken against any of the burghers so surrendering or so returning for any acts in connection with the prosecution of the war. The benefit of this clause will not extend to certain acts contrary to the usage of war which have been notified by the Commander-in-Chief to the Boer Generals, and which shall be tried by Court-Martial immediately after the close of hostilities.

5. The Dutch language will be taught in public schools in the Transvaal and the Orange River Colony where the parents of the children desire it, and will be allowed in Courts of Law when necessary for the better and more effectual administration of justice.

6. The possession of rifles will be allowed in the Transvaal and Orange River Colony to persons requiring them for their protection on taking out a licence according to law.

7. Military administration in the Transvaal and Orange River Colony will at the earliest possible date be succeeded by civil government, and, as soon as circumstances permit, representative institutions, leading up to self-government, will be introduced.

8. The question of granting the franchise to natives will not be decided until after the introduction of self-government.

9. No special tax will be imposed on landed property in the Transvaal and Orange River Colony to defray the expenses of the war.

10. As soon as conditions permit, a Commission, on which the local inhabitants will be represented, will be appointed in each district of the Transvaal and Orange River Colony under the presidency of a magistrate or other official, for the purpose of assisting the restoration of the people to their homes and supplying those who, owing to war losses, are unable to provide for themselves, with food, shelter, and the necessary amount of seed, stock, implements, etc., indispensable to the resumption of their normal occupations.

His Majesty's Government will place at the disposal of these Commissions a sum of three million pounds sterling for the above purposes, and will allow all notes, issued under Law No. 1 of 1900 of the Government of the South African Republic, and all receipts given by the officers in the field of

the late Republics or under their orders, to be presented to a Judicial Commission, which will be appointed by the Government, and if such notes and receipts are found by this Commission to have been duly issued in return for valuable consideration they will be received by the first-named Commissions as evidence of war losses suffered by the persons to whom they were originally given. In addition to the above-named free grant of three million pounds, His Majesty's Government will be prepared to make advances as loans for the same purposes, free of interest for two years, and afterwards repayable over a period of years with 3 per cent interest. No foreigner or rebel will be entitled to the benefit of this clause.

Signed at Pretoria this thirty-first day of May in the Year of Our Lord One Thousand Nine hundred and Two.

(Signed)

KITCHENER OF KHARTOUM.
MILNER.
S. W. BURGER.
F. W. REITZ.
LOUIS BOTHA.
J. H. DE LA REY.
L. J. MEYER.
J. C. KROGH.
C. R. DE WET.
J. B. M. HERTZOG.
W. C. J. BREBNER.
C. H. OLIVIER.

Statute Law of the Transvaal, 1900–6, ii. 445.

ORANGE RIVER COLONY: ADMINISTRATION OF JUSTICE, 1902–1910.

[With regard to the administration of justice in the lower courts, Ord. No. 7 of 1902 (7 Aug.) swept away the district courts of Landdrosts, of Assistant Landdrosts, of Landdrosts and Heemraden, and of Assistant Landdrosts and Heemraden. Courts of Resident Magistrates were set up, and to these officials fell the jurisdiction, powers and duties of the old Landdrosts and their Courts. The Cape model set up in 1828 was followed; consequently, by Ord. No. 8 of 1902, the new Resident Magistrates were also empowered to exercise in their respective districts the powers and functions of Civil Commissioners. The provisions of Ord. No. 7 of 1902 were repeatedly modified, as *e.g.* by the Petty Debts Recovery Ordinance, No. 2 of 1906; but the general plan was maintained.

A High Court of Justice for the Orange River Colony was set up at Bloemfontein by Ord. No. 4 of 1902 (16 July). There were to be two judges, which number was changed to three by Ord. No. 13 of 1904. The judges held office during good behaviour. Criminal cases were to be tried by one judge and a jury of nine. By the former of these ordinances appeals in criminal cases from the Superior Courts of the

O.R.C. were to be made to the Supreme Court of the Transvaal, but in 1904 the High Court was substituted for the Transvaal Court as a Court of Appeal. Circuit Courts were continued by both ordinances.]

ORANGE RIVER COLONY: MUNICIPAL GOVERNMENT, 1902–1910.

[By Ord. No. 6 of 1904 Municipal Councils in the various towns were provided for, consisting of from five to ten members elected by resident house-holders whose rates were paid. The Councillors could elect one of their number as Mayor. Special provisions were made in the case of Bloemfontein and Jagersfontein.

By Ord. No. 12 of 1904 Boards of Management could be elected for the villages of the O.R. Colony.

Both sets of bodies were empowered to frame regulations for their respective localities, which were to be submitted to the voters for their approval before they could be enforced. The local bodies could impose and collect certain local rates.]

THE INTER-COLONIAL COUNCIL.

[See p. 516.]

CHAPTER IV.

THE SOUTH AFRICAN REPUBLIC.

No. 174. THE THIRTY-THREE ARTICLES.

[During the years 1836 to 1844, the period intervening between the commencement of the Great Trek and the date of this document, there were three main groups of emigrants who settled round the spots where now stand the towns of Pietermaritzburg in Natal, Winburg in the Orange Free State and Potchefstroom in the Transvaal, though there were several minor posts. The Natal group was the first to establish a settled form of government which had begun to pass legislative enactments about the middle of 1839. The following year they were joined in a sort of union by the people residing at the other two places. It was probably on this occasion that an Adjunct Raad was set up at Potchefstroom, with a vague authority also over the people in the neighbourhood of Winburg. The body had to report any resolutions that it might pass, and was in other respects subject to the Volksraad at Pietermaritzburg, though in minor matters it was regarded as independent of the older legislature. It is not known whether the people of Potchefstroom took any action or passed any resolution with regard to the capitulation of the Natal Volksraad to the British in 1843, but obviously they did not regard themselves as affected thereby. The law given here was probably passed by the old Adjunct Raad, but portions of it remained in force for many years.]

DE DRIE EN DERTIG ARTIKELEN.[1] [9 April 1844.]

ZIJNDE ALGEMEENE BEPALINGEN EN WETTEN VOOR DE TEREGTZITTINGEN.

ART. 1. Alle teregtzittingen zullen in het openbaar gehouden worden.

2. De toehoorders zullen de teregtzittingen met ongedekte hoofden bijwonen en voorts een betamelijk ontzag en stilzwijgen bewaren. Al wat de President tot handhaving der goede orde beveelt, zal stiptelijk ten uitvoer gebragt worden.

THE THIRTY-THREE ARTICLES.[1] [9 April 1844.]

BEING GENERAL REGULATIONS AND LAWS FOR THE LAW SESSIONS.

ART. 1. All law sessions shall be open to the public.

2. The audience shall uncover their heads while attending the law sessions and shall further maintain a decorous and respectful silence. Whatever the President orders for the maintenance of good order shall be strictly carried out.

[1] Formally repealed by Procl. No. 34 of 1901.

3. Ingeval dat een of meer der personen, gedurende de openbare teregtzitting de stilte storen, en teekens van goed-of afkeuring geven, hetzij bij het verdedigen der partij, hetzij bij aanmaning of waarschuwing van den voorzitter of bij het uitspreken van vonnissen en bevelschriften, of op welke wijze ook geraas maken, of bewegingen verwekken; en zij op die waarschuwing van den bode zich niet dadelijk stil houden, dan zal hun gelast worden te vertrekken; en die zich daartegen verzet, zal terstond in een huis van burger arrest gezet worden, voor den tijd van 24 uren of langer—naar den aard der zaak. Wanneer de President het zal noodig achten, zoo zal hij door de toehoorders geadsisteerd worden zoodanige ongehoorzame personen in hechtenis te brengen.

4. Indien zoodanige personen weigerachtig zijn om den President te adsisteren, zullen zij in regten kunnen worden vervolgd.

5. Indien eenig regterlijk persoon of personen, in de uitoefening hunner pligten, door beleedigingen of dreigementen zal gehinderd worden door eenig persoon of personen, zal de zoodanigen, na behoorlijk onderzoek en getuigenis, gestraft worden met eene geldboete of gevangenisstraf—naar den aard der zaak; maar de beledigde regter zal in zoodanig geval niet als regter mogen fungeren.

6. Elk lid van den Burgerraad dezer maatschappij kan zoowel door den beklaagden als beschuldiger, als ook door de andere leden van den Raad kunnen afgekeurd worden. Geene Bastaarden zullen in onze vergaderingen als lid of regter mogen zitten tot het tiende gelid. Ten 1ste, wanneer de beklaagde of beschuldigde in bloedverwantschap of

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3. In case one or more of the persons should cause a disturbance during the public session and should show signs of approval or disapproval, whether during the defence of the party, or during the admonition or warning of the chairman, or while sentences are being passed or decrees issued, or in any way make a noise or create commotion; and if they should not immediately keep silence when warned by the messenger, then they shall be ordered to depart; and he who opposes such order shall at once be placed under civil arrest for the period of 24 hours or longer, according to the nature of the case. When the President may deem it necessary, he shall be assisted by the audience in taking in charge such disobedient persons.

4. If such persons should be unwilling to assist the President, they shall be liable to be prosecuted according to law.

5. If any judicial person or persons should, in the execution of their duties, be hindered by any person or persons through insults or threats, then such persons, after proper examination and evidence, shall be punished with a fine or imprisonment according to the nature of the case; but the insulted judge shall in that case not be allowed to act as judge.

6. Every member of the Burgerraad of this community may be objected to by the defendant as well as the accuser, as also by the other members of the Raad. No half-castes, down to the tenth degree, shall be entitled to sit in our meetings as a member or judge. [Nor shall a man act as judge:]

zwagerschap bestaat, tot in den derden graad ingesloten; 2de, indien hij persoonlijk belang in de zaak heeft; 3de, indien hij eenige schriftelijke raadslagen in de zaak gegeven heeft; 4de, indien hij gedurende het proces geschenken van iemand, die bij de zaak belang heeft, ontvangen heeft, of dezelve aan hem beloofd zijn; 5de, indien de regter, voogd of toeziende voogd, redderaar of vermoedelijke erfgenaam, of begiftigde van een der partijen is; 6de, indien er eenige hooge graad van vijandschap tusschen den regter en den beklaagde of beschuldigde plaats vindt of bestaat; 7de, indien er tusschen den regter en den beklaagde of beschuldigde, sedert den aanleg van het proces, of binnen den tijd van zes maanden hebben plaats gehad beleedigingen of dreigementen.

7. De afkeuring moet mondelings of bij geschrifte worden voorgedragen, zoodra de teregtzitting hare aanvang neemt; maar in den loop des onderzoeks is men daartoe niet meer geregtigd.

8. Ieder Commandant, onder-Commandant, Veldcornet of assistent Veldcornet, van de gewapende magt dezer maatschappij, die na wettige oproeping van den Raad of burgerlijk gezag zal weigeren de magt die onder zijn bevel staat, in het werk te stellen, zal gestraft worden met geldboeten van 50 tot 100 Rijks. of gevangenis—naar den aard der zaak.

9. Al diegenen die met buitenlandsche Mogendheden, of hunne Gouverneurs of Ambtenaren aanslagen of verstandhoudingen zullen gevormd hebben, ten einde dezelve tot het plegen van vijandschappen, of het ondernemen van oorlogen tegen deze Republiek over te halen,

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1stly, if the plaintiff or the defendant stands [to him] in relationship by blood or marriage to the third degree inclusive; 2ndly, if he has a personal interest in the case; 3rdly, if he has given any written advice in the case; 4thly, if during the action he has received gifts from anyone interested in the case, or if such gifts have been promised him; 5thly, if the judge is the guardian or acting guardian, agent or probable heir or the beneficiary of either of the parties; 6thly, if enmity to any great extent between the judge and the plaintiff or the defendant is aroused or exists; 7thly, if since the commencement of the action or within six months insults or threats have been employed between the judge and the plaintiff or the defendant.

7. The challenge must be brought forward verbally or in writing as soon as the sitting begins; but in the course of the examination no person shall be further entitled thereto.

8. Every Commandant, sub-Commandant, Field-cornet or assistant Field-cornet of the armed force of this community who, on being lawfully called up by the Raad or by the burgher authority, refuses to set in motion the force under his command, shall be punished with a fine of 50 to 100 Rix-dollars or with imprisonment according to the nature of the case.

9. All those who shall have formed plans or come to an understanding with foreign powers or their governors or officials with a view to inducing them to perform acts of hostility or to undertake the waging of war, or with a view to

of hun de middelen daartoe te verschaffen, of pogingen aanwenden om verraad te plegen, die zal gestraft worden met eene geldboete van Rijks. 500, en uit onze maatschappij verbannen worden; en indien hij wederkeerd, zal hij vogelvrij verklaard worden.

10. En al degenen die zich voor dato dezer hebben schuldig gemaakt aan bovenstaand artikel, zal indien hij een ambtenaar mogt zijn, van zijnen post worden ontzet; en indien hij een privaat persoon is nimmer eene post krijgen, en in onze maatschappij geen ambt bekleeden.

11. Al diegenen welke kennis dragen van eene zamenspanning of verraad, ofschoon zelfs vrij aan het verraad, en hetzelve niet binnen den tijd van acht dagen aan het hoogere gezag bekend maken, zal gestraft worden met eene geldboete van Rijks. 25, of een burger arrest—naar den aard der zaak, en van ontzetting van het regt tot stemming voor den tijd van twee jaren.

12. Wanneer een of meer burgers door middel van zamenrotting, dadelijkheden of dreigementen, verhinderd zullen worden hunne maatschappelijke regten uit te oefenen, zoo zal ieder der schuldigen gestraft worden met eene geldboete van Rijks. 25, of een burger arrest naar den aard der zaak, en met ontzegging van het regt tot stemming voor den tijd van twee jaren.

13. Ieder ambtenaar of bekleeder van openbare bedieningen, die in de teregtzittingen tot zijnen post behoorende, een valschheid begaan zal hebben, hetzij door verandering van geschriften, hetzij door onderschrijving van valsche personen, hetzij door bij of tusschenschrijvingen te doen op registers of openbare acten, nadat zij opgemaakt en gesloten

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supplying them with the means necessary thereto, and those who attempt to commit treason, shall be punished with a fine of 500 Rix-dollars and shall be expelled from our community, and on returning shall be declared outlawed.

10. And any person who previous to this date shall have been guilty in terms of the above article shall, if he be an official, be dismissed from his post, and if he be a private person, he shall never obtain a post or fill any office in our community.

11. All those who are aware of a plot or of any treason, although themselves not guilty of treason, and who do not report the matter within eight days to the higher authority, shall be punished with a fine of 25 Rix-dollars or with civil arrest according to the nature of the case, and with disfranchisement for a period of two years.

12. If one or more burghers shall be prevented by a conspiracy, by actual deeds or by threats from exercising their social rights, then every one of those who are guilty shall be punished with a fine of 25 Rix-dollars or with civil arrest according to the nature of the case, and with disfranchisement for a period of two years.

13. Every official, or one holding a public office, who in the sessions belonging to his office shall have committed fraud, either by altering documents or by subscribing false names of persons or by adding to or inserting anything into registers or public deeds after they have been made up and closed, shall

zijn, zal gestraft worden met Rijks. 300 boete en ontzetting van zijnen post.

14. Ieder doctor, genees of heelmeester of soortgelijke ambtenaar, die, om iemand te bevoordeelen, valsche getuigschriften geeft van ziekten of ongemakken geschikt om van den openbaren dienst bevrijd te worden, zal gestraft worden met eene geldboete van Rds. 150, of gevangezitting—naar den aard der zaak. Ieder doctor zal door den Raad goedgekeurd worden en certificaten verleenen.

15. Geen Raadslid zal mogen pleiten dan voor zichzelven, en ook geen raadgeven dan in de openbare zitting, en zoo ook geen scheidsman zijn.

16. Elk persoon kan zijne eigene zaak bepleiten; maar hij heeft ook het regt iemand in zijn plaats te qualificeren om in zijne plaats voor de Regtbank te fungeren.

17. Allen die schuldig zijn aan valsche getuigenis, zal dezelfde straf of boete moeten ondergaan als de veroordeelden zouden moeten ondergaan of geleden hebben.

18. Alle wie iemand stooten of slagen heeft toegebragt, zal met boete gestraft worden, naar den aard der zaak, van Rijks. 5 tot Rijks. 100, en alle kosten betalen, als hij te bed valt, ook zijn verzuimden tijd, pijn en smarten; en in geval van onvermogen zal hij in arrest worden geplaatst.

19. Schuldig aan wanbedrijf, van lastering en eerschennis aan

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be punished with a fine of 300 Rix-dollars and dismissal from his post.

14. Every doctor, physician, surgeon, or similar official, who, in order to benefit any one, shall give false certificates of diseases or ailments calculated to exempt from the public service, shall be punished with a fine of 150 Rix-dollars, or with imprisonment, according to the nature of the case. Every doctor shall be approved of by the Raad and be entitled to issue certificates.

15. No member of the Raad shall be allowed to plead except for himself; nor shall he give any advice except in public session; nor shall he act as umpire.

16. Every person shall be at liberty to plead his own cause; but he shall also have the right to instruct another to act in his place before the Bench.

17. All those who are guilty of perjury shall suffer the same punishment or pay the same fine as the persons convicted would have had to suffer or pay.

18. All those who have pushed or struck another shall be punished with a fine, according to the nature of the case, from 5 Rix-dollars to 100 Rix-dollars, and shall pay all costs if he should be laid up in bed; they shall further make good the time lost, the pain and the sufferings of such man; and in case they do not possess the necessary means, they shall be imprisoned.

19. Any person guilty of crime in consequence of slander

iemand toegevoegd, hetzij in het beleedigen van privaten in tegenwoordigheid van getuigen, die zal gestraft worden met een geldboete van Rijks. 5 tot Rijks. 100, naar den aard der zaak, ten voordele van 's lands kas.[1]

20. Al wie schuldig is aan moord, vader-moord, kinder-moord en vergiftiging, zal met den dood gestraft worden.

21. Al wie eenig goed dat hem niet toekomt arglistig wegneemt, maakt zich schuldig aan dieverij, en in alle gevallen van dieverij zal de *Hollandsche Wet* tot basis genomen worden.

22. Alle verbindtenissen van kwaaddoeners tegen personen en hunne goederen, is een misdaad tegen openbare rust; deze misdaad bestaat, wanneer er eenige scheiding of beraming onder hun en hunne hoofden plaats vindt, of wanneer er eene overeenkomst bestaat om den buit te deelen wanneer zulks plaats grijpt; en zoo deze misdaad van geene andere vergezeld mogt wezen, zoo zullen de aanleggers daarvan met dwang worden gestraft naar bevinding der Regters en naar den aard der zaak.

23. Al diegenenen die na wettelijke oproeping van het hoogere gezag, en zonder gegronde reden, weigerachtig zijn commandos of iets daarop betrekking hebbende te doen, zullen voor de eerste maal gestraft worden met eene boete van Rijks. 20; voor de tweede maal met Rijks. 30; en ten derde maal Rijks. 50, ten voordele van 's lands kas.

24. Een ieder die het regt schendt met brieven te openen zal in eene

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or defamation of any one's character, by insulting private persons in the presence of witnesses, shall be fined from 5 to 100 Rix-dollars, according to the nature of the case, for the benefit of the public treasury.[1]

20. All those guilty of murder, patricide, infanticide, and poisoning shall be punished with death.

21. All those who take away clandestinely goods not belonging to them are guilty of theft, and in all cases of theft the Dutch Law shall be taken as basis.

22. All alliances of evil-doers against persons and their property constitute a crime against the public peace; this crime exists when any agreement or plot is made among them or their chiefs, or when there is an agreement to divide the booty when it shall be acquired; and when this crime is not accompanied by any other, the instigators shall be punished according to the finding of the Judges and according to the nature of the case.

23. All those who, after being lawfully summoned by a superior authority, and without just cause, refuse to go on commando or to do anything connected therewith, shall be punished for the first offence with a fine of 20 Rix-dollars, for the second with 30 Rix-dollars and for the third with 50 Rix-dollars, for the benefit of the public treasury.

24. Any one infringing the law by opening letters shall be

[1] Repealed and re-enacted in a modified form in December 1871. *Locale Wetten der Z.A. Rep.* I. 455.

boete vervallen van Rijks. 50; maar ingeval er eenige suspicie van verraad mogt plaats vinden, zoo zullen zoodanige brieven na den eersten Commandant, onder-Commandant of Veldcornet verzonden worden, die het regt zal hebben dezelve te openen. In zulke gevallen, doch daarin geen nadeel vindende voor de maatschappij, zal hij dezelve met den meeste spoed onder het adres verzenden.

25. Elk burger dezer maatschappij zal verpligt zijn, wanneer hij uit de eene wijk vertrekt, den Veldkornet daarvan kennis te geven, en zich daar, waar hij zijn verblijf neemt, weder te melden binnen 14 dagen; en ingeval van nalatigheid, zal hij in eene boete vervallen van Rijks. 5, ten voordeele van 's lands kas.

26. Elk burger die, na vooraf gewaarschuwd te zijn, te na aan iemands eigendom bouwt of aanleg maakt en die zoo handelt tegen beter weten, zal geen aanspraak op zijn handwerk kunnen maken; het geschil kan door twee arbiters (de Commandant en Veldcornet) geschikt worden. Maar als het geschil hooger loopt, zal het voor Landdrost en Commissarissen van Landerijen worden gebracht, die hierover kunnen beslissen.

27. Al wie een openbare schending van eerbaarheid begaat, of beleedigingen, of lastertaal tegen de vrouwelijke sexse begaan zal hebben, waardoor nadeel of inbreuk op het karakter zulker personen door ontstaan kunnen, zal gestraft worden met eene boete van Rds. 50 tot 100, naar de aard der zaak.[1]

28. Geen persoon of personen zullen het regt hebben nabij eenige

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fined 50 Rix-dollars; but if there is any suspicion of treason such letters shall be sent to the nearest Commandant, sub-Commandant or Field-cornet, who shall have the right to open the same. In such cases, when finding therein nothing detrimental to the community, he shall send the same to the correct address with the utmost speed.

25. Every burgher of this community, when he moves from a ward, shall be bound to inform the Field-cornet thereof, and where he takes up his residence he shall again give notice thereof within 14 days; and in case of negligence he shall be fined 5 Rix-dollars for the benefit of the public treasury.

26. Any burgher who, after having been warned beforehand, builds too near another's property or erects any structure, and who acts thus contrary to his better judgment, shall not be entitled to claim the benefit of his handiwork; the dispute may be settled by two arbitrators (the Commandant and the Field-cornet). But if the dispute is not settled it shall be brought before the Landdrost and Commissioners of Lands, who have authority to decide thereon.

27. All those who shall publicly slander the honour of any female or who shall have employed slanderous or insulting language whereby harm or the defamation of the character of such person might be caused, shall be punished with a fine of 50 to 100 Rix-dollars according to the nature of the case.[1]

28. No person or persons shall have the right to go near the

[1] This provision was repealed and re-enacted in a modified form in December 1871. *Locale Wetten der Z.A. Rep.* I. 455.

Naturellen hunne verblijfplaatsen te gaan om kinderen op eene onwettige wijze te ontnemen, zoodanige overtreders zullen gestraft worden met eene boete van Rds. 500, of gevangenzitting voor zes maanden, en de ontnomene kinderen aan hunne ouders teruggeven worden.

29. Dat geene der naturellen zal toegelaten worden nabij eenige dorpsgronden, tot benadeeling der dorpelingen, hunne woningen te nemen, dan met toestemming van de volle Raad.

30. Alle jaren zal eene nieuwe electie plaats hebben, ten einde leden van den Volksraad te kiezen, en alle kieslijsten verzegeld en verzonden worden.

31. In alle gevallen waarin deze wetten tekort mogten komen zal de Hollandsche wet tot basis verstrekken, doch op eene gematigde stijlvorm en overeenkomstig van het costuum van Zuid Afrika en tot nut en welvaart van de maatschappij.

32. Iedere Veldcornet zal verpligt zijn alle onwilligers in zijn wijk te bezorgen aan het kantoor van den Landdrost.

33. In geval van dienstheer en dienstboden zal ieder dienstheer het regt hebben eene behoorlijke tucht onder dienstboden te houden. Maar geen mishandeling, indien zulks geschied, zal de dienaar aan wien de mishandeling geschiedt is, ontnomen worden en de dienstheer gestraft worden naar den aard der zaak.

Uit last van den volle Raad,
Als Voorzitter, J. D. VAN COLLER.
PIETER DIETRICKSEN, *Lid en Secretaris.*

POTCHEFSTROOM, *den 9 April* 1844.

Locale Wetten der Z.A. Rep. I. 1.

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abodes of natives with the object of taking away the children illegally; such offenders shall be punished with a fine of 500 Rix-dollars or with imprisonment for six months, and shall return to their parents the children removed.

29. That no natives shall be permitted to take up their residence near any town-lands to the detriment of the inhabitants of the town, except with the consent of the full Raad.

30. Every year there shall be a new election in order to choose members of the Volksraad, and all voters' lists shall be sealed and despatched.

31. In all cases in which these laws may prove insufficient the Dutch Law shall serve as basis, but only in a moderate way and according to the customs of South Africa and for the prosperity and welfare of the community.

32. Every Field-cornet shall be obliged to deliver all undesirables [or, all persons unwilling to serve,] at the office of the Landdrost.

33. In the matter of master and servants, every master shall have the right to maintain discipline properly among his servants. But there shall be no ill-treatment; if that does take place, the servant ill-treated shall be taken away and the master shall be punished according to the nature of the case.

[9 Ap. 1844.]

No. 175. VOLKSRAADSBESLUIT, 23 MEI 1849.

ART. 4.[1] "Voorgelegd aan den Raad de 33 Artikelen welke zijn vervaardigd te Potchefstroom, 9 April 1844, en eenparig door den Raad goedgekeurd en ter kennisse van het publiek gebragt hebbende, is door het publiek eenpariglijk goedgekeurd; zoo heeft de Raad gelast dat elk beambt persoon het stiptelijk zal moeten uitvoeren en de Landdrosten zal verpligt zijn copijen aan ieder Veldcornet en Commandant te zenden." *Locale Wetten der Z.A. Rep.* I. 6.

No. 175. RESOLUTION OF THE VOLKSRAAD, 23 MAY 1849.

ART. 4.[1] The 33 Articles which were drawn up at Potchefstroom on the 9th April 1844, on being submitted to the Raad, were unanimously approved of by them, and being brought to the knowledge of the public have been unanimously sanctioned; the Raad has therefore ordered that every official shall strictly carry them out, and the Landdrosts will be held to send copies to each Field-cornet and each Commandant.

No. 176. VOLKSRAAD RESOLUTION, JANUARY 1851.

ART. 67. The Hon. Raad has resolved to notify to all and every person whoever he may be who may be found to cause disturbances or to abet in creating or causing dissension or disunion be it in whatever manner to the detriment of the United Society of the Emigrants and not only he who abets but he who hears such and does not notify the Landdrost or the Hon. Raad or the Commandant-Generals shall be punished with a fine; he who causes or attempts to cause such shall pay a fine of 150 rix-dollars for the first time and 500 rix-dollars for the second time, and those who have known of it and have not notified, a fine of 50 rix-dollars for the first time and 100 rix-dollars for the second time, and in case of subsequent repetitions (*volgende rijse*) the punishment shall be doubled. *Statute Law of the Transvaal*, I. 1.

No. 177. THE SAND RIVER CONVENTION OF 1852.

[This agreement was an indirect result of events on the eastern frontier of the Cape Colony, where a war broke out in 1850 with various native tribes under the general leadership of the Xosa chief, Sandile. As the Governor needed all the available forces in the Colony, the astute Basuto chief, Moshesh, conceived the plan of destroying the British power in the Orange River Sovereignty. In that territory he caused a severe defeat to be inflicted on a body of troops, and no assistance coming from the Cape, the republican spirit among the burghers again grew strong and the assistance of the Dutch community to the north of the Vaal was enlisted. The Transvaalers proposed to form an alliance

[1] Repealed by Procl. No. 34 of 1901.

with Moshesh and to proceed to help the disaffected burghers in the Sovereignty to regain their independence. The agreement at the Sand River was entered into in order to ensure their neutrality.]

MINUTES OF A MEETING held in the place [*i.e.* on the farm] of Mr. P. A. VENTER, Sand River, on Friday, the 16th day of January 1852, between Major W. HOGGE and C. M. OWEN, Esq., Her Majesty's Assistant Commissioners for the settling and adjusting of the affairs of the eastern and north-eastern boundaries of the Colony of the Cape of Good Hope, on the one part; and the following deputation from the emigrant farmers residing north of the Vaal River:

A. W. J. PRETORIUS, Commandant-General [and others], on the other part.

The Assistant Commissioners guarantee in the fullest manner, on the part of the British Government, to the emigrant farmers beyond the Vaal River, the right to manage their own affairs and to govern themselves according to their own laws, without any interference on the part of the British Government; and that no encroachment shall be made by the said Government on the territory beyond, to the north of the Vaal River, with the further assurance that the warmest wish of the British Government is to promote peace, free trade, and friendly intercourse with the emigrant farmers now inhabiting, or who hereafter may inhabit, that country, it being understood that this system of non-interference is binding upon both parties.

Should any misunderstanding hereafter arise as to the true meaning of the words "The Vaal River," this question, in so far as regards the line from the source of that river over the Draakenberg, shall be settled and adjusted by commissioners chosen by both parties.

Her Majesty's Assistant Commissioners hereby disclaim all alliances whatever and with whomsoever of the coloured nations to the north of the Vaal River.

It is agreed that no slavery is, or shall be, permitted or practised in the country to the north of the Vaal River by the emigrant farmers.

Mutual facilities and liberty shall be afforded to traders and travellers on both sides of the Vaal River; it being understood that every waggon containing ammunition and firearms coming from the south side of the Vaal River shall produce a certificate signed by a British magistrate or other functionary duly authorised to grant such, and which shall state the quantities of such articles contained in said waggon, to the nearest magistrate north of the Vaal River, who shall

act in the case as the regulations of the emigrant farmers direct. It is agreed that no objection shall be made by any British authority against the emigrant Boers purchasing their supplies of ammunition in any of the British Colonies and Possessions of South Africa, it being mutually understood that all trade in ammunition with the native tribes is prohibited both by the British Government and the emigrant farmers on both sides of the Vaal River.

It is agreed that, so far as possible, all criminals and other guilty parties who may fly from justice either way across the Vaal River shall be mutually delivered up, if such should be required, and that the British courts, as well as those of the emigrant farmers, shall be mutually open to each other for all legitimate processes, and that summonses for witnesses sent either way across the Vaal River shall be backed by the magistrates on each side of the same respectively, to compel the attendance of such witnesses when required.

It is agreed that certificates of marriage issued by the proper authorities of the emigrant farmers shall be held valid and sufficient to entitle children of such marriages to receive portions accruing to them in any British Colony or Possession in South Africa.

It is agreed that any and every person now in possession of land and residing in British territory, shall have free right and power to sell his said property and remove unmolested across the Vaal River, and *vice versa*; it being distinctly understood that this arrangement does not comprehend criminals or debtors without providing for the payment of their just and lawful debts.

This done and signed at Sand River aforesaid, this 17th day of January 1852.

(Signed)
A. W. J. PRETORIUS, *Commt.-Gen.*
H. S. LOMBARD, *Landdrost.*
W. F. JOUBERT, *C.G.*
G. J. KRUGER, *Commandant.*
W. I. HOGGE, *Assist. Commissioner.*
C. MOSTYN OWEN, *Assist. Commissioner.*
J. N. GROBBELAAR, *R.L.*
P. E. SCHOLTZ.

(Signed)
P. G. WOLMARANS, *Ouderling.*
J. A. VAN ASWEGEN, *V.C.*
F. J. J. BOTES.
N. J. S. BASSON, *V.-Cornet.*
J. P. FURSTENBERG, *Veldcornet.*
J. P. PRETORIUS.
J. H. GROBBELAAR.
J. M. LEHMAN.
P. SCHUTTE.
J. C. KLOPPERS.

In presence of—

(Signed) JOHN BURNET, *Clerk to the Civil Commissioner of Winburg.*

(Signed) J. H. VISAGIE, *Secretary.*

Parl. Papers, S. Africa, C.O. (42), 1884, p. 92.

No. 178. VOLKSRAADSBESLUIT, RUSTENBURG, 10 AUG. 1853.

ART. 33.[1] "Op verzoek van de Kerkraad om vrij te zijn van alle landsdiensten en daarmede gepaard gaande onkosten, besluit de Raad dit verzoek toe te staan, maar alle diensten en daarmede gepaarde onkosten voor de Kerk, zal de Eerw. Kerkraad zelve dragen. Dit besluit is geldig zoo lang als de leden in de Kerkraad zitten, maar bij aftreden staat dat lid weder onder landsdiensten. De Leeraar van zelf is van alles uitgesloten, n.l. landsdiensten en daarmede gepaarde onkosten, en ook in Kerk van alles voorzien worde, en geassisteerd door de Kerkraadsleden."

No. 179. VOLKSRAADSBESLUIT, 19 SEPTEMBER 1853.

Art. 29.[1] "De Ed. Volksraad is overgegaan tot het aannemen van een titel voor dezen Staat, en heeft deze titel aangenomen:

"'DE ZUID-AFRIKAANSCHE REPUBLIEK.'

"En maakt bij deze aan het geheele publiek bekend, dat alle Staatsstukken van nu af onder dien titel zullen moeten worden ingezonden aan den Volksraad."

Locale Wetten der Z.A. Rep. I. 23.

No. 178. RESOLUTION OF THE VOLKSRAAD, RUSTENBURGH, 10 AUG. 1853.

ART. 33.[1] About the request of the Kerkraad to be exempt from all national service and the expenses therewith involved, the Raad decides to grant this request; but all services of the Church, with the expenses involved, shall be borne by the Kerkraad. This decision holds good for as long as the members sit in the Kerkraad; but when any member vacates his seat he again becomes liable to national service. The minister himself is exempt from everything, viz. national service and the accompanying expense. Also, in the Church he shall be supplied with everything and be assisted by members of the Kerkraad.

No. 179. RESOLUTION OF THE VOLKSRAAD, 19 SEPT. 1853.

ART. 29.[1] The Volksraad proceeded to adopt a title for this State, and has adopted this title:

"THE SOUTH AFRICAN REPUBLIC."

And it hereby notifies the whole public that henceforth all State papers will have to be sent in under that title to the Volksraad.

[1] Repealed by Procl. No. 34 of 1901.

No. 180. VOLKSRAADSBESLUIT, 21 NOVEMBER 1853.

ART. 115. "De Ed. Volksraad is overgegaan tot het aannemen van een naam voor dezen Staat, en heeft als naam aangenomen de volgende :

"'DE ZUID-AFRIKAANSCHE REPUBLIEK BENOORDEN DE VAALRIVIER.'

"En maakt aan het geheele publiek bekend dat alle Staatsstukken, enz., onder dezen naam of titel aan den of bij den Ed. Volksraad ingezonden moeten worden. Art. 29 van 't besluit van September l.l. is aldus vervallen en vernietigd verklaard."

Locale Wetten der Z.A. Rep. I. 23.

No. 181. VOLKSRAADSBESLUIT, 18 JUNIJ 1855.

ART. 159.[1] "Een voorstel gedaan aan den WelEd. Volksraad door de Ed. heer D. H. Botha, Landdrost. Dat van heden af alle vreemdelingen onverschillig van welke Europeesche natie het ook zijn mogt, vrijheid gegeven zal worden, om in dit land te komen wonen en gelijke regten zullen genieten onder voorwaarde dat hij echter vooraf zijn burgerregt in dit land zal moeten koopen.

"Hierop heeft de WelEd. Volksraad besloten en het volgende vastgesteld hetwelk van heden af alle vreemdelingen welke in dit land komen wonen en welke niet in Afrika geboren zijn, niet als burgers

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No. 180. RESOLUTION OF THE VOLKSRAAD, 21 NOV. 1853.

ART. 115. The Volksraad proceeded to adopt a name for this State, and has adopted the following :

"THE SOUTH AFRICAN REPUBLIC TO THE NORTH OF THE VAAL RIVER."

And it notifies the whole public that all State papers, etc. will have to be sent in or addressed to the Volksraad under this name or title. Art. 29 of the resolution of last September is therefore declared lapsed and void.

No. 181. RESOLUTION OF THE VOLKSRAAD, 18 JUNE 1855.

ART. 159.[1] A proposal made to the Volksraad by Mr. D. H. Botha, Landdrost: That henceforth all strangers, no matter to what European nation they may belong, shall be allowed to come and stay in this country, and that they shall enjoy equal rights, on condition, however, that they shall first purchase their rights of burghership in this country.

Hereupon the Volksraad has decided and affirmed as follows: That henceforth no strangers, who come to reside in this country and who were not born in Africa, shall enjoy

[1] Repealed by Procl. No. 34 of 1901.

dezer Republiek stemgeregtigd of geregtigd tot eenig ambt den Staat betreffende zullen erkend worden of gerechtigd zijn zonder vooraf hun burgerregt gekocht te hebben, welk burgerregt gekocht zal moeten worden voor de som van twee honderd Kaapsche Rijksdaalders (zegge Rds. 200) en zal iemand die geen erkende burger is ook geen regt hebben van vaste goederen in eigendom te bezitten.

"Wanneer een manspersoon als burger van deze Republiek erkend is, zal zijne vrouw daardoor ook als burgeres van deze Republiek erkend worden en blijven.

"Alle kleurlingen zijn hiervan uitgesloten dewelke nimmer het burgerregt gegeven of toegekend mag worden (volgens de Grondwet). Om het burgerregt te bekomen zal elk vreemdeling als hierboven genoemd is, voorzien moeten zijn van een paspoort van de bevoegde Regering onder welke zij geboren zijn of gewoond hebben om te bewijzen dat zij van een goed gedrag zijn."

Locale Wetten der Z.A. Rep. I. 31.

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the franchise as a burgher of the Republic or be recognised as entitled to fill any public office in the State, without having first purchased their rights of burghership, which rights of burghership shall have to be bought for two hundred Cape Rix-dollars (Rds. 200). And no person who is not recognised as a burgher shall have the right to possess immovable property.

When a male person has been recognised as a burgher of this Republic, his wife shall thereby also be recognised and remain a burgheress of this Republic.

All coloured people are excluded from this provision, and (in accordance with the Grondwet) they may never be given or granted rights of burghership. In order to acquire burgher rights, every such stranger as is mentioned above will have to be provided with a passport from the competent Government under which he was born or has lived, to show that he is of good behaviour.

No. 182. THE GRONDWET OF THE SOUTH AFRICAN REPUBLIC.

[Besides the Volksraad at Pietermaritzburg and the Adjunct Raad at Potchefstroom, already noticed, there arose another Raad to the north of the Vaal. This body held its sessions at Ohrigstad, and the first entry in its minute-book bears the date July 1845, a few months later than the royal Letters Patent which constituted Natal a separate Colony. (The last entry in the books of the Volksraad of Natal is dated 16th July 1845.) In the minute-book of the Ohrigstad Raad, which ends with the 7th May 1849, there is no reference to the Adjunct Raad at Potchefstroom, so that we must conclude that from the establishment of the Raad there was in fact a small republic at Ohrigstad. But though separate parties selected different spots to settle in and established governing bodies of their own, racial affinity and threatening dangers from outside moved the emigrants to seek a common meeting-ground. On 23rd May 1849 a meeting was held by six members of the Ohrigstad Raad and fourteen delegates from other parts of the trans-

Vaal territory, when they arrived at the decision to form "a Common Union of the whole Community on this side of the Vaal River." From that time there were regular sessions of the Volksraad, whose volume of Resolutions covers the period from May 1849 till 11th March 1856. Of those a few are given above. As the Resolution of 23rd May 1849, printed above, indicates, the people of the country and the newly established legislature adopted the Thirty-Three Articles of 1844. That the Grondwet was not established until 1858 was due to the rival ambitions of individuals bidding for power and popularity, intensified by ecclesiastical discord. Rivalry and discord were the natural offspring of a form of government necessarily weak at its inception, and of that abnormally developed individualism which was the most striking characteristic of the class of people who had furnished forth the emigrant farmer. *Vide* also No. 188, Note.]

GRONDWET VAN DE ZUID-AFRIKAANSCHE REPUBLIEK.[1]

[Februari 1858.]

Algemeene Bepalingen.

Art. 1. Deze Staat zal den naam dragen van de Zuid-Afrikaansche Republiek.

2. De Regeringsvorm van dezen Staat zal zijn die eener Republiek.

3. Zij wil zich bij de beschaafde wereld als een onafhankelijk en vrij volk erkend en geëerbiedigd zien.

4. Het volk zoekt geen uitbreiding van grondgebied, en wil die alleen volgens regtvaardige beginsels; wanneer het belang der Republiek die uitbreiding raadzaam maakt.

5. Het volk wil zijn grondgebied, gelegen in Zuid-Afrika ongeschonden bezitten en in 't bezit houden, *met inbegrip zijner regten en aanspraken op het grondgebied gelegen ten Oosten en Zuid-Oosten dezer*

THE GRONDWET OF THE SOUTH AFRICAN REPUBLIC.[1] [Feb. 1858.]

General Regulations.

Art. 1. This State shall bear the name of the South African Republic.

2. The form of government of this State shall be that of a Republic.

3. It desires to be acknowledged and respected by the civilised world as an independent and free people.

4. The people seek no extension of territory, and desire it only according to principles of justice, when the interests of the Republic render it advisable.

5. The people desire to possess and retain their territory unimpaired *inclusive of their rights and claims to the territory towards the East and South-East of this Republic, so far as those*

[1] The more important differences between the articles of this Grondwet and those of the 1889 Grondwet are indicated in footnotes on the following pages. Some articles of the later law are given *in toto* below, p. 485, but several of the more important changes embodied in the 1889 Law were effected by Law No. 3, 1881, which, to avoid repetition, is not printed in this volume.

Republiek, zoover als die regten en aanspraken strekken; even zoo ten Westen en Zuid-Westen. En het Gouvernement van de Zuid-Afrikaansche Republiek zal verpligt wezen, zoo spoedig mogelijk werkzaam te zijn, om bij Proclamatie de lijnen en grenzen vast te stellen en bekend te maken.[1]

6. Zijn grondgebied staat voor iederen vreemdeling open, die zich aan de wetten dezer Republiek onderwerpt. Allen, die zich op het grondgebied dezer Republiek bevinden, hebben gelijke aanspraak op bescherming van personen en goederen.

7. De in dit grondgebied gelegene gronden of plaatsen, die heden nog onuitgegeven zijn, worden verklaard eigendommen van den Staat te wezen; *echter voor het publiek als te voren verkrijgbaar. Geen plaats zal tot dat einde grooter geïnspecteerd worden dan* 3000 *morgen. En niemand zal voor aanvraag en verkrijging van gronden geregtigd wezen, voor dat hij den ouderdom van zestien jaren bereikt heeft.*[1]

8. Het volk eischt de meest mogelijke maatschappelijke vrijheid en verwacht die van het behoud van zijn godsdienstig geloof; van de nakoming zijner verbindtenissen; van zijne ondergeschiktheid aan wet, orde en regt, en de handhaving van dezelve. Het volk laat de uitbreiding van het Evangelium toe onder de heidenen, onder bepaalde voorzorgen tegen gebrek of misleiding.

9. Het volk wil geene gelijkstelling van gekleurden met blanke ingezetenen toestaan, *noch in Kerk noch in Staat.*[1]

10. Het volk wil geen slavenhandel, noch slavernij in deze Republiek dulden.

11. Het volk behoudt uitsluitend aan zich de bescherming en

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rights and claims extend, and so in like manner towards the West and South-West. And the Government of the South African Republic shall be obliged as soon as possible to take steps for fixing and publishing by proclamation the limits and boundaries.[1]

6. Its territory is open to every stranger who submits to the laws of this Republic. All persons who happen to be within the territory of this Republic have equal claim to protection of person and property.

7. The lands or farms situated within this territory which have not yet been given out are declared to be the property of the State, *but are none the less obtainable as heretofore by the public. No farm inspected for that purpose shall be larger than* 3000 *morgen. And no one shall be entitled to apply for or to obtain lands until he has reached the age of sixteen.*[1]

8. The people demand as much social freedom as possible, and expect to obtain it by retaining their religious faith, by fulfilling their obligations, by submitting to law, order and justice, and by upholding these. The people permit the spread of the Gospel among the heathen subject to definite safeguards against fault and deception.

9. The people desire to permit no equality between coloured people and the white inhabitants, *either in Church or State.*[1]

10. The people desire to put up with no trading in slaves nor with slavery in this Republic.

11. The people reserve to themselves alone the protection

[1] The italicised words were omitted from the 1889 Grondwet.

verdediging van de onafhankelijkheid en onschendbaarheid van *Kerk en* [1] Staat, overeenkomstig de wetten.

12. Het volk geeft de wetgeving in handen van eenen Volksraad, het hoogste gezag des lands, bestaande uit vertegenwoordigers of lasthebbers des volks, door de stemgeregtigde burgers gekozen; doch alleen voor zoo verre, dat aan het volk drie maanden tijds zal gelaten zijn, om over eene voorgestelde wet zijn oordeel aan den Volksraad desverkiezende te kunnen inleveren; behalve de wetten die geen uitstel kunnen lijden.

13. Het volk draagt de voorstelling en uitvoering der wetten op aan eenen Uitvoerenden Raad,[2] welke tevens de voordragt van alle landsambtenaren aan den Volksraad doet.

14. Het volk vertrouwt de handhaving der orde aan de Krijgsmagt toe.

15. Het volk stelt de regterlijke magt in handen van Landdrosten, en gezworenen, en laat die aan hun oordeel en geweten over, om volgens landswetten te handelen.

16. Het volk zal jaarlijks van den Volksraad eene begrootingswet van algemeene uitgaven voor *Kerk en* [3] Staat ontvangen en daaruit vernemen hoeveel ieders belasting zal beloopen.

17. Potchefstroom, gelegen aan de Mooirivier, zal de hoofdplaats der Republiek en Pretoria de zetel van het Gouvernement zijn.

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and defence of the independence and inviolability of *Church and* [1] State, according to the laws.

12. The people delegate the function of legislation to a Volksraad, the highest authority in the country, consisting of representatives or plenipotentiaries of the people, elected by burghers possessing the franchise, but it is provided that a period of three months be given to the people to enable them to convey to the Volksraad their views on any proposed law, should they so desire, except in the case of laws which can brook no delay.

13. The people delegate the proposal and the administration of the laws to an Executive Council,[2] which shall also recommend all public officials for appointment by the Volksraad.

14. The people entrust the maintenance of order to the military power.

15. The people vest the judicial power in Landdrosts and Jurors, and leave it to their judgment and conscience to act according to the laws of the country.

16. The people shall annually receive from the Volksraad an estimate of general expenses for *Church and* [3] State, and shall learn therein to how much each one's taxes shall amount.

17. Potchefstroom, situated on the Mooi River, shall be the chief town of the Republic and Pretoria shall be the seat of Government.

[1] The italicised words were omitted from the 1889 Grondwet.

[2] The 1889 Grondwet substituted "State President" for "Executive Council."

[3] The italicised words were omitted from the 1889 Grondwet.

18. Alle diensten ten behoeve van het algemeen gevorderd, worden door het algemeen beloond.

19. Vrijheid van drukpers is toegestaan, mits de drukker en uitgever verantwoordelijk blijven voor al de stukken die eerschennis, beleediging of aanranding van iemands karakter bevatten.

OVER DE BESCHERMING EN VERDEDIGING VAN KERK EN STAAT.

20.* Het volk wil zijne Nederduitsch Hervormde Godsdienstleer, zooals deze in de jaren 1618 en 1619 door de Synode te Dordrecht is vastgesteld, in hare grondbeginselen blijven behouden, en de Nederduitsch-Hervormde Kerk zal de Kerk van den Staat zijn.

21.* Het verkiest in zijn midden geen Roomsche Kerken toe te laten, en ook geene andere Protestantsche, dan de zoodanige waarin dezelfde hoofdsom van christelijk geloof geleerd wordt, als is opgegeven in den Heidelbergschen Catechismus.

22. Het zal geen andere vertegenwoordigers in den Volksraad aanstellen, dan degenen die lidmaten der Nederduitsch-Hervormde [1] gemeenten zijn.

23.* Het volk erkent geen ander kerkelijk gezag dan dat, wat door de kerkeraden zijner Nederduitsch-Hervormde gemeenten is of wordt goedgekeurd, aangenomen en vastgesteld, volgens art. 20.

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18. All services required for the public shall be rewarded by the public.

19. Liberty of the press is granted, provided that the printer and the publisher remain responsible for all articles containing libel, insult, or defamation of any person's character.

ABOUT THE PROTECTION AND DEFENCE OF CHURCH AND STATE.

20.* The people desire to retain the fundamental teachings of their Dutch Reformed Religion as laid down in the years 1618 and 1619 by the Synod of Dordrecht, and the Dutch Reformed Church shall be the State Church.

21.* They prefer to allow no Roman Catholic Churches amongst them, nor any other Protestant Churches than those in which the same tenets of the Christian belief are taught, as contained in the Heidelberg Catechism.

22. They shall appoint no other representatives to the Volksraad than those who are members of the Dutch Reformed [1] congregations.

23.* The people acknowledge no other ecclesiastical authority than that which has already or may hereafter be approved, adopted and laid down by the *kerkraads* (consistories) of their Dutch Reformed congregations.

* These and subsequent clauses marked with an asterisk were not taken up in the 1889 Grondwet. They were either repealed between 1858 and 1889 or their provisions were separately embodied in resolutions of the Volksraad and other special enactments.

[1] Membership of some Protestant Church was demanded by the 1889 Grondwet.

24. Het volk verlangt den opbouw, bloei en de welvaart van *Kerk en* [1] Staat, en uit dien hoofde voorziening in de behoeften van *Nederduitsch Hervormde Predikanten en* [1] Schoolonderwijzers.

25. Zoo ook, dat in tijd van vrede voorzorgende maatregelen genomen worden, om een oorlog te kunnen voeren of te wederstaan.

26. Ingeval van vijandelijken inval van buiten, zal een ieder zonder onderscheid gehouden zijn om met de uitvaardiging der oorlogswet zijnen bijstand daartoe te verleenen.

27. Geen tractaat of bondgenootschap met buitenlandsche mogendheden of volkeren mag aangeboden, aangenomen of gesloten worden, dan nadat de Volksraad door den President en de Leden van den Uitvoerenden Raad is opgeroepen, om daarover zijn gevoelen kenbaar te maken, zullende het voorstel volgens het oordeel der leden van den Volksraad goedgekeurd en vastgesteld of afgekeurd worden.

28. Bij voor den Staat dreigend gevaar of in oorlogstijd zal de beoordeeling over het al of niet raadzame van zoodanig tractaat of bondgenootschap, aan den Commandant-Generaal, met overleg van den Krijgsraad, overgelaten worden, indien de commando's in het veld zijn, en er geen tijd is om den Uitvoerenden Raad te raadplegen.

OVER DEN VOLKSRAAD, HET HOOGSTE GEZAG, OF DE WETGEVENDE MAGT.

29. De Volksraad zal het hoogste gezag des lands zijn, en de Wetgevende Magt.

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24. The people desire the development, prosperity and welfare of *Church and* [1] State, and with this view to provide for the wants *of the Dutch Reformed Ministers and* [1] Teachers.

25. In like manner provision shall be made in time of peace for carrying on or resisting war.

26. In the event of hostile invasion every person without distinction shall be obliged on the proclamation of the War Ordinance to render assistance therein.

27. No treaty or alliance with foreign powers or peoples shall be proposed, accepted or concluded, except after the Volksraad has been called together by the President and the members of the Executive Council, in order that it may express its views thereon, so that the proposal shall be approved and confirmed, or it shall be rejected, according to the decision of the Volksraad.

28. In the event of threatening danger to the State or in time of war the decision as to whether such treaty or alliance is advisable shall be left to the Commandant-General in consultation with the Council of War in case the commandos are in the field and if there is no time to consult the Executive Council.

ABOUT THE VOLKSRAAD, THE SUPREME AUTHORITY OR LEGISLATIVE POWER.

29. The Volksraad shall be the supreme authority and the legislative power of the country.

[1] The italicised words were omitted from the 1889 Grondwet.

30. Als vertegenwoordigers des volks, zijn zij geen Lands-ambtenaren.

31. De Volksraad zal ten minste uit 12 leden bestaan, deze moeten de volgende vereischten bezitten: zij moeten tusschen de 30 en 60 jaren oud zijn, 3 jaren [1] stemgeregtigde burgers, *lidmaten van de Nederduitsch Hervormde gemeenten* [2] zijn; in de Republiek wonen, en vaste goederen in het grondgebied dezer Republiek bezitten. Geen personen van een openlijk slecht gedrag of die een onteerend vonnis ten hunnen laste gehad hebben, zullen verkiesbaar zijn; zij mogen elkander niet bestaan in de betrekking van vader of zoon, heele of halve broeders, of eigen oom en neef. Geen gekleurden, noch bastaarden zullen toegelaten worden in onze vergaderingen.[3] Een ieder is gerechtigd, wanneer hij daarvan het bewijs kan leveren, het aan den President van den Uitv. Raad in te zenden, voor dat zoodanig lid zitting neemt. Ingeval het bewijs voldoende overtuigend is zal de President van den Uitv. Raad, voor de opening van de zitting, hetzelve aan den Voorzitter van den Volksraad ter hand stellen, en op de verwijdering van het betrokken lid aandringen.

32. De leden van den Volksraad worden door de meerderheid van stemmen door het volk gekozen. Ieder burger die den ouderdom van 21 jaren en daarboven bereikt heeft, zal stemgeregtigd burger zijn,

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30. As representatives of the people they [the members of the Volksraad] are not public officials.

31. The Volksraad shall consist of at least twelve members, who must possess the following qualifications: They must be between 30 and 60 years of age; burghers who shall have possessed the franchise for 3 years; [1] *members of the Dutch Reformed Congregations*; [2] residents in the Republic, possessing immovable property in the territory of this Republic. No person of an openly bad character, or who has had a dishonouring sentence passed against him, shall be eligible; the members shall not stand to each other in the relationship of father or son, or own or half-brothers, or uncle or nephew by blood. No coloured persons or half-castes shall be admitted to our meetings.[3] Any person is entitled, when he has proof thereof, to transmit it [his reason for objecting to a member ?] to the President of the Executive Council before such member takes his seat. If the proof is sufficiently convincing, the President of the Executive Council shall, before the commencement of the session, submit it to the Chairman of the Volksraad and shall insist on the dismissal of the member concerned.

32. The members of the Volksraad shall be chosen by a majority of the votes of the people. Every burgher, who has reached the age of 21 years or more, shall possess the franchise,

[1] The 1889 Grondwet demanded 15 consecutive years for those not born in the Republic.

[2] The italicised words were omitted from the 1889 Grondwet.

[3] These provisions were modified by resolution of the Volksraad, dated 11 June 1873, when the number of members was fixed at 28. By the 1889 Grondwet military officers and other salaried officials were also excluded.

mits lidmaat [1] der Nederduitsch Hervormde Kerk zijnde. De Volksraadsleden worden verkozen voor den tijd van twee jaren.[2]

33. De verkiezing der leden voor den Volksraad zal geheel vrij zijn: en uit ieder der districten zal een gelijk aantal leden verkozen worden; de kiezers van het ene district, kunnen ook hunne stem uitbrengen op een persoon in een ander district wonende.

34. Ieder stemgeregtigd burger staat het vrij, om indien hij beschuldigingen wegens ambts-overtredingen of ambts-misdaden, begaan door den President of een der leden van den Uitvoerenden Raad, meent te moeten inbrengen, die beschuldigingen aan den Voorzitter van den Volksraad in te leveren, onder het adres van: "Aan den Wel-Ed. heer Voorzitter van den Volksraad," welke daarmede naar bevinding van zaken zal handelen.

35. De verkiezing van leden voor den Volksraad zal in de maand Maart [3] plaats hebben. Uit elk der districten zullen zes [3] leden bij meerderheid van stemmen gekozen worden, om als volksvertegenwoordigers zitting te nemen. De Veldcornetten zullen in tijds zorg dragen dat de kieslijst aan de Landdrosten, en deze weder zorg dragen dat die kieslijsten onmiddelijk aan den Uitv. Raad worden ingezonden. Op het einde van het eerste jaar zal de helft der leden bij loting aftreden;

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provided he be a member [1] of the Dutch Reformed Church. The members of the Volksraad shall be chosen for the period of two years.[2]

33. The election of members of the Volksraad shall be entirely free, and out of each district an equal number of members shall be chosen; the electors of one district may also record their votes for a person residing in another district.

34. Every burgher possessing the franchise shall be entitled, if he should consider it his duty to bring a charge concerning offical transgressions or misdeeds committed by the President or one of the members of the Executive Council, to deliver those charges to the Chairman of the Volksraad under the following address: "To the Chairman of the Volksraad," which Chairman shall deal with the matter according to circumstances.

35. The election of members of the Volksraad shall take place in the month of March.[3] Out of each of the districts six [3] members shall be chosen by majority of votes to take session as representatives of the people. The Field-cornets shall see to it that lists of voters be sent to the Landdrosts in time, and they again shall see to it that those lists be sent at once to the Executive Council. At the end of the first year half the members shall retire by lot, the other half at the end

[1] This provision regarding membership of a particular church was abolished by resolution of the Volksraad, dated 20 Sep. 1858. *Locale Wetten der Z.A. Rep.* I. 103.

[2] Altered to four years by resolution on 11 June 1873. *Ibid.* I. 525.

[3] Altered by resolution on 11 June 1873, so that the elections could take place in January and February, and each district could elect 3 members and the towns of Potchefstroom, Rustenburg, and Lijdenburg one member each. *Ibid.* I. 525. Again altered in 1886, document No. 211.

de andere helft op het einde van het tweede jaar, en zoo voort. Uit de districten wier leden uitvallen zullen nieuwe Volksraadsleden gekozen worden. De aftredende leden zijn herkiesbaar.

36. De Uitvoerende Raad zal verpligt zijn zorg te dragen dat de Volksraad van een bekwaam secretaris voorzien worde tijdens deszelfs zitting.

37. De verkozenen tot leden van den Volksraad zullen, indien zij verontschuldigingen tegen de op hen uitgebragte keuze meenen te moeten maken, die verontschuldigingen, tegen de op hen uitgebragte keuze, dadelijk, na de ontvangene aanschrijving, met de eerste post verzenden aan den Uitv. Raad. Hij die daaraan niet voldoet, of zonder voldoende redenen voor de verkiezing bedankt, zal in eene boete van Rds. 25 vervallen. Indien deze kennisgeving niet met de eerste post geschiedt na de aanschrijving, dan zal de boete bedragen Rds. 50. Blijft een lid van den Volksraad zonder bedanken weg, en voldoet hij niet aan de oproeping, dan wordt hij beboet met Rds. 75.[1]

38. De redenen van verschooning voor het niet verschijnen van een lid van den Volksraad, zijn:

1. Ongesteldheid en lichaamsgebreken, te bewijzen door het verkozene of opgeroepen lid, met eene onderteekende verklaring van den Landdrost, Commandant of Veldcornet zijner afdeeling, en
2. Zoodanige onvoorziene omstandigheden, die werkelijk be-

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of the second year, and so on. For the districts of which the members retire new members shall be elected. The retiring members shall be re-eligible.

36. It shall be the duty of the Executive Council to see to it that the Volksraad be provided with a competent secretary during its sessions.

37. The persons elected as members of the Volksraad shall, if they deem it desirable to be excused from accepting their election, immediately on receiving notice of such election, send their requests to be excused by the first post to the Executive Council. He who does not comply herewith or declines without sufficient cause to accept his election shall be liable to a fine of 25 Rix-dollars. If the notice containing the request mentioned above be not sent by the first post after the notice of election, then the fine shall be 50 Rix-dollars. If a member of the Volksraad remains away without having resigned and does not respond when called upon to attend, he shall be fined with 75 Rix-dollars.[1]

38. The grounds on which a member of the Volksraad may be excused from attending are:

1. Sickness and bodily ailments, to be proved by the elected and summoned member by means of a declaration signed by the Landdrost, Commandant, or Field-cornet of his division, and
2. Such unforeseen circumstances, which must be

[1] The 1889 Grondwet laid it down that if a member absented himself without resigning he was liable to a fine of 75 rix-dollars.

wezen zijnde, het hem onmogelijk maken aanwezig te zijn of te blijven.

39. Alle bedenkingen, verontschuldigingen en kennisgevingen, bedoeld in art. 37 en 38, zullen aan den President van den Uitv. Raad ingezonden en door den Uitv. Raad beoordeeld worden. In de, dien ten gevolge, onvervulde plaatsen zal zoo spoedig mogelijk voorzien worden, volgens art. 35.

40. De leden van den Volksraad zullen voor het aanvaarden hunner betrekking beëedigd worden door de Volksraadsleden, die op den dag der zitting tegenwoordig zijn; hun eed zal zijn van den volgenden inhoud:

"Als verkozen tot lid van den Volksraad dezer Republiek, verklaar, beloof en zweer ik plegtig dat ik aan niemand eenige gift gedaan of beloofd heb om tot die betrekking te geraken; dat ik in die betrekking getrouw zal zijn aan het volk; mij zal gedragen overeenkomstig de Grondwet dezer Republiek, naar mijn beste kennis en geweten, en niets anders te beoogen dan de bevordering van het geluk en welzijn der ingezetenen in het algemeen."

41. De aanwezige leden van den Volksraad kiezen hunnen Voorzitter na de opening der zitting, en voor den tijd van hun zittingsjaar.

42. Al hetgeen waarover beraadslaagd wordt zal door ¾ van het aantal stemmen [1] beslist worden.

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actually proved, as shall render it impossible for him to be or remain present.

39. All representations, excuses and notices mentioned in arts. 37 and 38 shall be sent to the President of the Executive Council and shall be decided on by the Executive Council. The seats that become vacant in this manner shall be filled as soon as possible according to art. 35.

40. The members of the Volksraad shall, before entering on the duties of their office, be sworn by the members present on the day the former take their seats; their oath shall be of the following tenor:

"As elected member of the Volksraad of this Republic I declare, promise and swear solemnly that I have given or promised no gift to any one in order to obtain that position; that I will be faithful to the people in the discharge of my office, will conduct myself in accordance with the Grondwet of this Republic to the best of my knowledge and according to the dictates of my conscience, and will aim at nothing else than to promote the happiness and welfare of the inhabitants in general."

41. The members of the Volksraad present shall elect their Chairman after the opening of the session, and for the period of one year.

42. Any matter discussed shall be decided by three-fourths of the votes recorded.[1]

[1] The 1889 Grondwet demanded "a decided majority."

43. De Volksraad gaat niet uiteen voordat alle zaken die behandeld moeten worden afgehandeld zijn, en de zitting door den Voorzitter van den Raad gesloten is. Een Volksraadslid kan vrijheid ontvangen de vergadering te verlaten indien hij verkeert in het geval van No. 2, art. 38.

44. De leden van den Volksraad zullen, voor zoolang zij in die betrekking zijn, in persoon vrij wezen van 's lands dienst en vrij van kosten [1] die de krijgsmagt van hen zoude kunnen afvorderen; zij zullen vergoeding van hun verblijf genieten gedurende de oponthoud hunner bezigheden.

45. De vergaderingen worden met opene deuren gehouden, tenzij dat de Voorzitter of de President van den Uitv. Raad [2] het noodig oordeelt dat de beraadslagingen over het een of ander voorstel in het geheim gehouden worden. De aanwezige personen, die geen zitting in den Volksraad hebben, mogen niet spreken, dan wanneer zij op eene vraag van den Voorzitter hebben te antwoorden.

46.* De volgorde der werkzaamheden is deze:

(*a*) De Voorzitter van den Volksraad opent de zitting.

(*b*) De Voorzitter schrijft den President van den Uitvoerenden Raad aan, om verslag te doen volgens art. 74.

(*c*) De Volksraad benoemt eene commissie, bestaande uit drie zijner leden, om over dat verslag een schriftelijk rapport uit te brengen.

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43. The Volksraad shall not adjourn before all matters to be dealt with have been disposed of and the sitting closed by the Chairman of the Raad. A member of the Volksraad can receive permission to leave the assembly if he finds himself in the position described by section 2 of art. 38.

44. The members of the Volksraad shall, during their term of office, be exempt from personal military service as also from the charges [1] which the military power might demand of them; and they shall receive payment for their attendance during the interruption of their business.

45. The sittings shall be held with open doors, unless the Chairman or the President of the Executive Council [2] shall deem it expedient that the deliberations on any proposal take place in secret. No person present, who is not a member of the Volksraad, may speak, except when he has to reply to a question from the Chairman.

46.* The order of business will be as follows:

(*a*) The Chairman of the Volksraad opens the sitting.

(*b*) The Chairman addresses himself in writing to the President of the Executive Council to request him to make his statement according to art. 74.

(*c*) The Volksraad appoints a commission of three of its members to report in writing on the said statement.

[1] The 1889 Grondwet made them liable to pay these charges.

[2] The 1889 Grondwet left it to the Volksraad to decide when they should hold a secret session.

(*d*) De President van den Uitv. Raad stelt aan den Voorzitter van den Volksraad zijne voorstellen van wet ter hand, en de Volksraad bepaalt de volgorde waarin deze behandeld zullen worden.

(*e*) De commissie bij art. (*c*) vermeld, doet rapport en de Volksraad besluit ontrent het antwoord aan den President van den Uitvoerenden Raad te geven.

(*f*) De Volksraad beantwoordt het verslag van den President van den Uitvoerenden Raad.

(*g*) De beraadslagingen over de ingezondene voorstellen van wet, en tevens over het tijdstip waarop de wet zal ingevoerd worden, in overeenkomst met art. 12.

(*h*) Benoeming van ambtenaren op voordragt van den President van den Uitvoerenden Raad.

(*i*) Overige werkzaamheden.

(*j*) Sluiting der zitting, volgens art. 43.

47. De Voorzitter zal al de voorstellen van wet, bij de Volksraad ingekomen, in beraadslaging brengen, of deze 3 maanden voor de indiening aan den Volksraad aan het algemeen bekend zijn gemaakt, of dat dezelve tijdens de zitting van den Volksraad zijn ingekomen.

48. Wanneer de bekendstelling van wetten en Gouvernements bekendmakingen aan het algemeen, niet intijds is geschied, zal de President van den Uitvoerenden Raad onderzoeken bij wien de schuld van dat oponthoud gelegen is. Een Landdrost in deze schuldig

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(*d*) The President of the Executive Council delivers to the Chairman of the Volksraad the laws proposed by him, and the Volksraad decides the order in which they shall be dealt with.

(*e*) The commission mentioned in art. (*c*) renders its report, and the Volksraad resolves on the reply to be given to the President of the Executive Council.

(*f*) The Volksraad answers the statement of the President of the Executive Council.

(*g*) The deliberations on the proposed laws sent in, and further on the time when they shall come into force in accordance with art. 12.

(*h*) The appointment of officials on the recommendation of the President of the Executive Council.

(*i*) Remaining business.

(*j*) Closing of the sitting according to art. 43.

47. The Chairman shall bring up for discussion all proposed laws sent in to the Volksraad, whether these have been made known to the public three months before their introduction or whether the same have been sent in during the session of the Volksraad.

48. When the publication of laws and Government notices to the public have not taken place in time, the President of the Executive Council shall ascertain by whose fault the delay was caused. A Landdrost, if he is to blame in such a matter, shall

bevonden wordende, zal in eene boete van Rds. 50 vervallen, een Veldkornet of minder beambte, van Rds. 25.

49. Een afschrift van ieder aangenomene wet zal door den Voorzitter aan den President van den Uitvoerenden Raad, ter uitvoering ingezonden worden.

50. Wanneer een nieuwe President van den Uitvoerenden Raad benoemd is, zal de Volksraad vier zijner leden en den Secretaris afvaardigen, om hem uit te noodigen in de Volksraadsvergadering den ambtseed te komen afleggen.

51. Bij de benoeming van de leden van den Uitvoerenden Raad en den Commandant-Generaal, zal de Volksraad hun daarvan schriftelijk kennis geven, met uitnoodiging om den ambtseed op een daarbij bepaalden tijd voor den Volksraad te komen afleggen. [Zie art. 91.]

52. De acten van aanstelling voor landsambtenaren, door den President van den Uitvoerenden Raad, overeenkomstig art. 13 voorgedragen, worden door den Voorzitter en den Secretaris van den Volksraad onderteekend en aan den Uitvoerenden Raad ingezonden.[1]

53. Indien het Hoog Geregtshof, bedoeld in art. 143, den President of een der leden van den Uitvoerenden Raad, of den Commandant-Generaal, onwaardig verklaart om zijn ambt of hunne ambten te bekleeden, dan zal de Voorzitter van den Volksraad, op ontvangst van de uitspraak van dat Hof, de leden van den Volksraad bijeenroepen, welke gehouden zijn, om volgens hunne pligt de zitting bij te wonen,

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be liable to a fine of 50 Rix-dollars, a Field-cornet or lesser official to a fine of 25 Rix-dollars.

49. A copy of every law passed shall be sent by the Chairman to the President of the Executive Council to be carried into effect.

50. Whenever a new President of the Executive Council shall have been nominated, the Volksraad shall depute four of its members, with the Secretary, to invite him to appear before the Volksraad in order to take the oath of office.

51. On the appointment of the members of the Executive Council and the Commandant-General, the Volksraad shall apprise them thereof in writing, and shall at the same time invite them to appear before the Volksraad on a specified date in order to take the oath of office. [See art. 91.]

52. The letters of appointment of the public officials, submitted by the President of the Executive Council according to art. 13, shall be signed by the Chairman and the Secretary and despatched to the Executive Council.[1]

53. In the event of the High Court of Justice, mentioned in art. 143, declaring the President or any one of the members of the Executive Council or the Commandant-General unworthy to fill their office or offices, then the Chairman of the Volksraad shall, on receiving the judgment of the said Court, call together the members of the Volksraad, who shall be obliged as in duty

[1] The 1889 Grondwet substituted this provision: "The list of officials appointed shall be submitted annually by the President to the Volksraad for its approval or disallowance."

ten einde de veroordeelde of veroordeelden van zijn ambt of hunne ambten te ontzetten, en zoodra mogelijk in de vervulling der opengevallene plaats of plaatsen te voorzien.

54. De leden van den Volksraad vergaderen in Raadzaal, jaarlijks op den 2 den Maandag in September, of op andere tijden in het oproepingsberigt aangewezen, wanneer de President het noodig oordeelt dat de Volksraad bijeenkomt; voorts dagelijks des morgens ten negen ure, om niet minder dan 4 tot 5 uren per dag werkzaam te zijn. De vergadering van den Volksraad zal met een gepast gebed geopend en gesloten worden.

55. De Voorzitter van den Volksraad is verantwoordelijk, dat de vergaderingen volgens bepaling in art. 54 gehouden worden, bij verzuim waarvan de Volksraad hem beboeten kan met Rds. 5 tot 50.

56.* De Voorzitter zorgt voor de orde tijdens de beraadslagingen, en heeft hij eenmaal een lid tot de orde moeten terug brengen, dan zal hij, wanneer zulks voor de tweede maal noodig wordt, hem beboeten. Iedere overtreding door de leden van den Volksraad, van de bepaalde bij dit, of bij art. 54 begaan, zal gestraft worden met eene boete van Rds. 5.

57. De handhaving der orde, onder de aanwezige personen, bedoeld in art. 45, zal moeten worden toevertrouwd aan eenen Veldcornet door den Landdrost van het district, waar de zitting gehouden wordt, daartoe aangeschreven.

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bound to attend the sitting, in order to dismiss from office the person or persons convicted, and in order to fill the vacated seat or seats as soon as possible.

54. The members of the Volksraad shall meet together annually in the Council Hall on the 2nd Monday in September, or at other times specified in the writ of summons, whenever the President may deem it necessary that the Volksraad shall assemble; and the sittings shall commence daily at 9 o'clock in the morning in order to devote not less than from 4 to 5 hours per day to business. Each meeting of the Volksraad shall be opened and closed with a suitable prayer.

55. The Chairman of the Volksraad shall be responsible for the holding of the sittings according to the provisions of art. 54, in default whereof he shall be liable to be fined by the Volksraad with 5 to 50 Rix-dollars.

56.* The Chairman shall see to the maintenance of order during the deliberations, and when he has been compelled to call any member to order once, he shall fine him if he has to do so a second time. Each offence committed by any member against the provisions of this article or of art. 54, shall be punished with a fine of 5 Rix-dollars.

57. The maintenance of order among the visitors present, mentioned in art. 45, shall be entrusted to a Field-cornet pointed out by the Landdrost of the district where the session is held.

58. De Landdrost zal ook een bode aanstellen, om gedurende de vergaderingen ten dienste van den Volksraad te staan.

59. De Volksraad beoordeeld alle overtredingen voor de Volksraad vastgesteld, en in de Raadzaal begaan, en bestraft deswege de overtreders zonder verder beroep.

60. Van alle beboetingen door den Volksraad gedaan, wordt door de Secretaris kennis gegeven aan de Landdrosten, waaronder de beboetenen resorteren, en deze dragen zorg voor de invordering.

OVER DEN PRESIDENT EN DE LEDEN VAN DEN UITV. RAAD, DE VOORSTELLERS DER WETTEN.

61. De President [1] van den Uitvoerenden Raad wordt bij meerderheid van stemmen, voor den tijd van 5 jaren, door de stemgeregtigde burgers gekozen. Hij moet vijf jaren stemgeregtigde burger geweest, en lidmaat van de Nederduitsch-Hervoormde Gemeente zijn,[2] geen onteerend vonnis te zijnen laste gehad en den ouderdom van 30 jaren bereikt hebben.

62. De President van den Uitvoerenden Raad is de eerste of hoogste ambtenaar van den Staat, alle landsambtenaren zijn hem ondergeschikt; dezulke echter die met de uitoefening der Regtsmagt bedeeld zijn, zijn in die uitoefening geheel en al vrij en onafhankelijk.

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58. The Landdrost shall further appoint a messenger to be at the service of the Volksraad during the sittings.

59. The Volksraad shall decide upon all violations of the rules laid down for its guidance, if such violations shall take place within the Council Chamber, and shall punish the offenders for the same without any appeal.

60. Of all fines imposed by the Volksraad, notice shall be given by the Secretary to the Landdrost under whose jurisdiction the persons fined may be classed, and who shall see to the collection of the same.

ABOUT THE PRESIDENT AND THE MEMBERS OF THE EXECUTIVE COUNCIL, THE PROPOSERS OF LAWS.

61. The President [1] of the Executive Council shall be chosen for the period of 5 years by a majority of the votes of the burghers possessing the franchise. He must have been for five years a burgher possessing the franchise, and a member of the Dutch Reformed Congregation,[2] not convicted of any dishonouring crime, and have reached the age of 30 years.

62. The President of the Executive Council is the first or highest official in the State. All public officials are subject to him. Those, however, to whom the exercise of judicial authority is entrusted, are, in the exercise thereof, entirely free and independent.

[1] The 1889 Grondwet stated that the executive power was vested in the President and that he was responsible to the Volksraad.

[2] The 1889 Grondwet demanded membership of some Protestant Church.

63. Zoolang de President die betrekking waarneemt, zal hij geene andere, noch kerkelijke bediening vervullen, geen handel drijven en zich nooit zonder toestemming van den Volksraad buiten 's lands begeven.[1]

64. Ingeval van ontzetting van zijn post, dood, ontslag of onbekwaamheid om zijne betrekking te vervullen, zal deze worden toevertrouwd aan den oudsten der leden van den Uitvoerenden Raad, welke zoo spoedig mogelijk zal kennis geven aan den Volksraad, om te voorzien in de opengevallen plaats.[2]

65. De President zal door den Volksraad van zijn post ontslagen of ontzet worden na overtuiging van wangedrag, verduistering van Staatseigendom, verraad, of andere zware misdaden, en verder naar de wetten behandeld worden.[3]

66. Aan den President is opgedragen het voorstellen van wetten aan den Volksraad, hetzij eigene voorstellen, hetzij anderen van het volk bij hem ingekomen, hij zal die voorstellen, drie maanden voor het indienen aan den Volksraad, door middel van de *Staatscourant* aan het algemeen moeten bekend maken; benevens alle andere stukken, die door hem nuttig en noodig geoordeeld worden.

67. Alle voorstellen van wet bij den President ingekomen, zullen, voordat deze bekend gemaakt worden, door den President en den

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63. So long as the President shall be in office, he shall hold no other, nor fill any ecclesiastical position, he shall carry on no trade, nor shall he betake himself to any place outside this country except with the consent of the Volksraad.[1]

64. In case of his dismissal from office, death, discharge, or inability to fulfil the duties of his office, such office shall be entrusted to the oldest of the members of the Executive Council, who shall as speedily as possible give notice to the Volksraad, in order that the office vacated may be filled.[2]

65. The President shall be discharged or dismissed from office by the Volksraad on conviction of bad behaviour, embezzlement of State property, treason or other serious crimes; and he shall further be dealt with according to law.[3]

66. To the President is entrusted the proposal of laws to the Volksraad, whether they be his own proposals or sent in to him by the people; it shall be his duty to make such proposals known to the public, through the medium of the *Staatscourant*, three months before they are introduced in the Volksraad; and similarly with regard to all other papers which he may deem useful and necessary.

67. All proposed laws sent in to the President shall before publication be considered by the President and the Executive

[1] The 1889 Grondwet permitted the President to leave the country for private purposes in case of necessity.

[2] The 1889 Grondwet laid it down that the Volksraad should appoint as Vice-President a member of the Executive Council.

[3] The 1889 Grondwet provided that if the Volksraad decided that the President should be prosecuted for breaking the Grondwet or for some other offence against the State, then the State Attorney should prosecute him before a special court consisting of the members of the High Court of Justice, the Chairman of the Volksraad, and one other member of the Volksraad.

Uitvoerenden Raad beoordeeld worden of de bekendmaking noodig zij of niet.

68. De verdediging van elk voorstel van wet geschiedt voor den Volksraad door den President, of in persoon, of door een der leden van den Uitvoerenden Raad, daartoe door hem aangewezen.[1]

69. Zoodra de President van den Uitvoerenden Raad de kennisgeving van den Volksraad ontvangen heeft, dat de voorgestelde wet is aangenomen, zal hij die wet binnen twee maanden doen bekend maken, en na verloop van eene maand, te rekenen na de algemeene bekendmaking, voor de uitvoering derzelve zorg dragen.

70. Van de oorlogswet, bedoeld in art. 26, zal niet anders, dan door den President, met toestemming van de leden van den Uitvoerenden Raad, kunnen kennis gegeven worden. Die kennisgeving zal echter moeten plaats hebben, in geval van dringend gevaar, en de wet zal dan dadelijk ten uitvoer gebragt worden; de beoordeeling over het gevaar wordt aan den President en de leden van den Uitvoerenden Raad en ter hunner verantwoording overgelaten. De Commandant-Generaal zal bij de beoordeeling en beslissing over krijgszaken in den Uitvoerenden Raad, in zijne betrekking, bij die vergadering moeten aanwezig zijn en mede eene stem als zoodanig hebben.

71. De President van den Uitvoerenden Raad doet de voordragt van alle landsambtenaren aan den Volksraad, in overeenstemming met de wetten omtrent de aanstelling der landsambtenaren.

Council in order to decide whether such publication is necessary or not.

68. It shall rest with the President personally to recommend every proposed law to the Volksraad, or he may appoint any of the members of the Executive Council for that purpose.[1]

69. As soon as the President of the Executive Council has received a notification from the Volksraad to the effect that the proposed law has been adopted, he shall cause the said law to be published within two months, and on the expiry of another month from the date of publication he shall cause the said law to be carried out.

70. As regards the War Ordinance mentioned in art. 26, publication thereof shall alone be made by the President with the consent of the Executive Council. Such publication shall, however, be made in case of imminent danger, and the law shall then take effect immediately; the decision as to the danger shall rest with the President and members of the Executive Council on their own responsibility. The Commandant-General shall, by virtue of his office, be obliged to be present at those meetings of the Executive Council in which decisions or resolutions are taken with regard to military affairs, and he shall then also have a vote.

71. The President of the Executive Council shall recommend all public officials to the Volksraad, in accordance with the laws relating to the appointment of public officials.

[1] By Law 3, 1881, the member under whose department a bill fell was made responsible for its introduction.

72. De President beantwoordt zoo veel mogelijk aan het verlangen van het volk, aangewezen in art. 24.

73. De President zal jaarlijks in de maand September het voorstel eener begrotingswet van algemeene uitgaven en inkomsten, *voor Kerk en Staat,*[1] aan den Volksraad inzenden, en daarin aanwijzen hoe het tekortkomende te dekken of het overschot te besteden.

74. Ook zal hij tijdens die zitting van den Volksraad verslag geven van zijne verrigtingen gedurende het afgeloopen jaar, van den toestand der Republiek en van al wat haar belang in het algemeen betreft.

75. Na onderzoek van de aan den Uitv. Raad ingezonden kieslijsten voor de leden van den Volksraad, zal hij dien raad bijeenroepen, jaarlijks tegen den 2 den Maandag in September, en wanneer de noodzakelijkheid zulks vereischt.

76. Hij doet in de maand Maart openbaar bekend maken, de namen en woonplaatsen der gekozenen tot leden van den Volksraad.

77. De schriftelijke bijeenroeping der leden van den Volksraad tot de zitting, zal drie weken voor de opening derzelve ten hunne huizen bezorgd moeten zijn.

78. De President zal ten minste eenmaal in het jaar de steden en dorpen der Republiek, waar landskantoren zijn, bezoeken; den staat dier kantoren opnemen, en het gedrag der landsambtenaren nagaan; en op die rondreize den ingezetenen gelegenheid geven om, gedurende zijn oponthoud, hunne belangen aan hem voor te dragen.

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72. The President shall as far as possible act in accordance with the wishes of the people, indicated in art. 24.

73. The President shall annually in the month of September submit to the Volksraad an estimate of the general expenditure and revenue *for Church and State,*[1] pointing out how the deficiency can be covered and how the surplus may be invested.

74. He shall also, during the session of the Volksraad render account of his doings during the past year, of the state of the Republic, and of all that concerns its welfare generally.

75. After examination of the voting lists for the members of the Volksraad sent in to the Executive Council, he shall summon the said Raad annually by the 2nd Monday in September, and also when it shall be urgently necessary.

76. In the month of March he shall make known to the public the names and places of residence of those elected as members of the Volksraad.

77. The written summonses to the members of the Volksraad shall be delivered at their residences three weeks previous to the opening of the same.

78. The President shall visit at least once a year the cities and towns of the Republic where there are public offices; he shall take note of the state of those offices and observe the behaviour of the public officials; and on such tour he shall give the inhabitants the opportunity to lay before him their interests during his stay at any place.

[1] The italicised words were omitted from the 1889 Grondwet.

79. De President heeft de magt, behoudens zijne verantwoording aan den Volksraad, om de landsambtenaren in hunne betrekking te stuiten, voorlopige aanstellingen te doen, en alle opene plaatsen in te vullen. Hij doet de eerstvolgende zitting van den Volksraad verslag dezer handelingen.

80. De President onderteekent mede alle benoemingen van landsambtenaren, doet hen hunne instructie zelve of door bevoegde ambtenaren voorlezen en verklaren; den ambtseed afleggen en teekenen, en laat hen na de aanstelling een afschrift der instructie ter hand stellen.

81. De President is belast met de regeling der algemeene dienst, het postwezen en de openbare werken, hij en de leden van den Uitv. Raad zijn tevens belast met het oppertoezigt over de kruitmagazijnen en kanonnen van den Staat.

82. De briefwisseling met buitenlandsche Mogendheden zal door den President en den Uitvoerenden Raad gevoerd worden. De brieven zullen door hem en den Gouvernements Secretaris [1] gevoerd worden.

83. De President met den Uitvoerenden Raad heeft het regt om de straf of de straffen, ter zake van wangedrag of misdaad, uitgesproken, te verminderen of kwijt te schelden, op voordragt van het Hof, dat het vonnis heeft geveld, of op verzoek van den veroordeelden, na daaromtrent het advies van het Hof te hebben ingewonnen.

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79. The President has the power, subject to his responsibility to the Volksraad, to suspend public officials from their posts, to make provisional appointments, and to fill all vacancies. At the next following session of the Volksraad he shall give an account of these proceedings.

80. The President shall likewise sign all appointments of public officials, shall read out and explain to them, either in person or through competent officers, their instructions, shall administer and sign the oaths of office and shall cause a copy of their instructions to be handed them on their appointment.

81. The regulation of the public service, the postal service and the public works is entrusted to the President, who is further entrusted, together with the members of the Executive Council, with the supervision of the powder magazines and the artillery of the State.

82. All correspondence with foreign powers shall be conducted by the President and the Executive Council. All letters shall be drawn up and signed by him and the Government Secretary.[1]

83. The President, with the Executive Council, shall have the right to commute or remit a sentence or sentences pronounced for misconduct or crime, on the recommendation of the Court which pronounced the sentence, or on petition made by the party sentenced, after having obtained the opinion of the Court thereon.

[1] By resolution of the Volksraad, dated 31 May 1873, his official title was changed to that of State Secretary (*Staatssecretaris*). *Locale Wetten der Z.A. Rep.* I. 519.

84. Voor het aanvaarden van zijn ambt, zal hij den volgenden eed in handen van den Volksraad afleggen :

" Als verkozen tot President van den Uitvoerenden Raad dezer Republiek beloof en zweer ik plegtig, dat ik getrouw zal zijn aan het volk ; dat ik in mijne betrekking naar recht en wet zal handelen, volgens mijn beste kennis en geweten, zonder aanzien des persoons ; dat ik aan niemand eenige gunst of gift gedaan heb om tot die betrekking te geraken ; dat ik van niemand eenige gift of gunst zal aannemen, wanneer ik vermoeden kan, dat deze gift of gunst gedaan of bewezen zou worden, met het oogmerk om van mij een besluit ten voordele van den begunstiger of gever te gewinnen ; dat ik mij zal gedragen overeenkomstig de Grondwet dezer Republiek, en niets anders bedoel dan de bevordering van het geluk en welzijn van hare ingezetenen in het algemeen."

85.[1] Den President zal een Uitvoerenden Raad toegevoegd worden, bestaande uit den Commandant-Generaal,[2] twee stemgeregtigde burgers en een Secretaris, welke gelijke stem zullen hebben en den titel voeren van leden van den Uitvoerenden Raad. De President en

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84. Before assuming his office he shall take the following oath before the Volksraad :

" As elected President of the Executive Council of this Republic I promise and swear solemnly that I shall be faithful to the people ; that in the discharge of my office I shall act according to justice and law to the best of my knowledge and according to the dictates of my conscience, without respect of persons ; that I have done no favour and given no gift in order to obtain this office ; that I shall accept no gift or favour from any one, if I have reason to suspect that such gift or favour is granted or done with the purpose of obtaining from me any decision which may benefit the person granting the gift or favour ; that I shall conduct myself in accordance with the Grondwet of this Republic, and that I aim at nothing but the advancement of the happiness and welfare of its inhabitants in general."

85.[1] To the President shall be allowed an Executive Council, consisting of the Commandant-General,[2] two burghers possessing the franchise, and a Secretary, who shall all have an equal vote and bear the title of members of the Executive Council.

[1] Cf. art. 82 of the 1889 Grondwet below.

[2] By resolution of the Volksraad, dated 30 May 1873, the State Attorney (*Staatsprocureur*) was substituted for the Commandant-General. *Locale Wetten der Z.A. Rep.* I. 519. *Vide* also resolution dated 27 May 1889, below, and the foot-note given there. *Cf.* No. 209.

de leden van den Uitvoerenden Raad zullen wel zitting, doch geen stem in den Volksraad hebben.

86. De President zal Voorzitter van den Uitvoerenden Raad wezen, en bij staking van stemmen eene beslissende stem hebben. Bij de bekrachtiging van doodvonnissen of oorlogsverklaringen, zal de eenparige stem van den Uitvoerenden Raad, ter beslissing vereischt worden.

87. De Uitvoerende Raad zal op den eersten Woensdag der maanden Februarij, April, Junij, Augustus, October en December, en op zoodanige andere tijden als de President zal noodig oordelen, ten zijnen kantore zitting houden.

88. Alle besluiten van den Uitvoerenden Raad en ambtsbrieven van den President, moeten, behalve door hem, ook door den Gouvernements Secretaris onderteekend worden. De mede-onderteekenaar is teevens verantwoordelijk, dat de inhoud van het besluit of van den brief niet strijd met de bestaande wetten.

89. De beide stemgeregtigde burgers of leden van den Uitvoerenden Raad, bedoeld bij art. 85, worden door den Volksraad gekozen, voor den tijd van 3 jaren; de Commandant-Generaal voor een onbepaalden tijd; zij moeten lidmaten der Nederduitsch-Hervormde Gemeente[1] zijn, geen onteerend vonnis ten hunne laste gehad en den ouderdom

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The President and members of the Executive Council shall be entitled to sit but not to vote in the Volksraad.

86. The President shall be the Chairman of the Executive Council, and when the votes are equal, he shall have a casting vote. In confirming death sentences or the declaration of war, the unanimous vote of the Executive Council shall be necessary to arrive at a decision.

87. The Executive Council shall meet on the first Wednesday of the months of February, April, June, August, October and December, at the President's office, and at such other times as he shall deem necessary.

88. All resolutions of the Executive Council and official correspondence of the President shall be signed by the Government Secretary as well as by the President. The person who signs with the President is likewise responsible for seeing that the contents of any resolution or letter shall not be in conflict with existing laws.

89. Both the burghers possessing the franchise who are members of the Executive Council, as mentioned in art. 85, shall be chosen by the Volksraad for a period of 3 years; the Commandant-General for an indefinite time; they shall be members of the Dutch Reformed Congregation,[1] shall not have had a dishonouring sentence passed against them, and shall have reached the age of thirty years. They shall

[1] Subsequently altered to "members of a Protestant Church." 1889 Grondwet, art. 88.

van dertig jaren bereikt hebben. Alsmede de vereischten bezitten in art. 31 voor de leden van den Volksraad vastgesteld.

90. De Secretaris van den Uitvoerenden Raad wordt mede door den Volksraad gekozen ; doch aangesteld voor den tijd van vier jaren. Bij aftreding is hij herkiesbaar. Hij moet lidmaat van de Nederduitsch Hervormde Gemeente [1] zijn, geen onteerend vonnis ten zijnen laste gehad hebben, vastgoed in de Republiek bezitten en den ouderdom van 30 jaar bereikt hebben.

91. Alvorens de leden van den Uitvoerenden Raad en den Commandant-Generaal hunne betrekking aanvaren leggen zij den ambtseed in handen van den Volksraad af en teekenen denzelven. Die eed zal zijn van gelijken inhoud als die van den President van den Uitvoerenden Raad, gewijzigd naar den titel of de betrekking van den beëedigde, en die van den Commandant-Generaal, naar den inhoud van art. 108.

92. Alvorens de Secretaris zijn betrekking aanvaart legt hij den volgenden eed [2] in handen van den Uitvoerenden Raad af en teekent denzelven ; de Uitvoerende Raad zal voor hem eene instructie vervaardigen.

93. Ingeval de Volksraad oordeelt aan de klagten in art. 34 vermeld gevolg te moeten geven, zal hij de aanklagt tot het doen van onderzoek, in handen stellen van den Staatsprocureur. Blijkt uit dat onderzoek dat de aanklagt gegrond is, dan zal de Volksraad de aanklagt ver-

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further possess the qualifications of members of the Volksraad laid down in art. 31.

90. The Secretary of the Executive Council shall also be chosen by the Volksraad, but his appointment shall be for a period of four years. On vacating his office he shall be re-eligible. He shall be a member of the Dutch Reformed Congregation,[1] shall have had no dishonouring sentence passed against him, shall possess immovable property in the Republic, and shall have reached the age of 30 years.

91. Before entering upon the duties of their office, the members of the Executive Council and the Commandant-General shall take the oath of office before the Volksraad and shall sign the same. The said oath shall be of like tenor as that of the President of the Executive Council, modified according to the title or office of the party sworn, and that of the Commandant-General shall be according to art. 108.

92. Before entering on the duties of his office, the Secretary shall take and sign the following oath [2] before the Executive Council. The Executive Council shall draw up his instructions.

93. In case the Volksraad shall decide that it is its duty to give effect to the complaints mentioned in art. 34, it shall place the charges to be investigated in the hands of the State Attorney. If it appears from the investigation that the charge is well founded, then the Volksraad shall forward the same

[1] Subsequently altered to "member of a Protestant Church." 1889 Grondwet, art. 89.

[2] The oath prescribed for the Secretary is not given in this Grondwet.

zenden naar het Hoog Geregtshof,[1] onder kennisgeving van die verzending aan den bedoelden Staats-Procureur. Dit hof zal dan van de zaak kennis nemen en in het hoogste ressort uitspraak doen.

94.* Bij pligtverzuim van den President of een der leden van den Uitvoerenden Raad, om aan Art. 87 te voldoen, zullen zij beboet worden met 5 tot 10 Rds. of verder naar den aard der zaak.

95.* Het Gouvernements-kantoor zal dagelijks geopend wezen van des morgens 10 tot 3 uren, uitgezonderd de Zaterdags van iedere week, en al de Zon- en Feestdagen.

OVER DE KRIJGSMAGT EN DEN KRIJGSRAAD.

96. De krijgsmagt bestaat uit al de weerbare mannen van deze Republiek, en zoo noodig uit al die der kleurlingen binnen 's lands, wier Opperhoofden aan haar onderworpen zijn.

97. De weerbare mannen van de blanken zijn, alle manspersonen, tusschen den ouderdom van 16 en 60 jaren; en van de kleurlingen, allen die in staat zijn om in den krijg van dienst te wezen.

98. Tot indeeling van de krijgsmagt, wordt het grondgebied dezer Republiek verdeeld in veldkornetschappen en districten. De scheidings-lijnen der veldcornetschappen en districten worden bepaald door en bij gezamenlijk overleg van den President van den Uitvoerenden Raad, den Commandant-Generaal [2] en de aangrenzende Commandanten [2] en Veldcornetten; en ieder inwoner zal verpligt wezen om onder

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to the High Court of Justice,[1] at the same time giving notice thereof to the said State Attorney. The Court shall then take cognizance of the charge, and deliver judgment in the last resort.

94.* In case of neglect of duty by the President or one of the members of the Executive Council, in not complying with art. 87, they shall be fined with a sum of from 5 to 10 Rix-dollars, or otherwise according to the nature of the case.

95.* The Government office shall be open daily from 10 a.m. to 3 p.m., Saturdays, Sundays, and holidays excepted.

ABOUT THE MILITARY POWER AND THE COUNCIL OF WAR.

96. The military power comprises all the able-bodied men of this Republic, and, if necessary, all the coloured people in this country, whose chiefs are subject to it.

97. The able-bodied men of the white population are all the male persons between the ages of 16 and 60; and of the coloured people, all who are able to render service in war.

98. For organising the military power the territory of this Republic shall be divided into field-cornetcies and districts. The boundaries of the field-cornetcies and districts shall be fixed through and by the joint decision of the President of the Executive Council, the Commandant-General [2] and the Commandants [2] and Field-cornets of the neighbourhood; and

[1] Or, as the 1889 Grondwet, art. 92, provided, to the special court referred to above in the foot-note to art. 65.

[2] By resolutions of the Volksraad dated 7 June 1873, the offices of Com-

dat veldcornetschap of district, waaronder hij woont, aan die authoriteiten te gehoorzamen.

99. De manschappen staan onder het bevel van de volgende Officieren, zijnde naar rang van opklimming: Assistent-Veldcornetten, Veldcornetten, Commandanten, en een Commandant-Generaal.

100. De Officieren worden bij meerderheid van stemmen gekozen namelijk, de Assistent-Veldcornetten en Veldcornetten, door de stemgeregtigde burgers der wijken; zoo de Commandanten door de stemgeregtigde burgers der districten. En de Commandant-Generaal door al de stemgeregtigde burgers dezer Republiek. De kiesloten voor de verkiezing der Officieren, zullen bij de landdrosten bezorgd worden, die deze zullen moeten opzenden aan den Uitvoerenden Raad. De Uitvoerende Raad zal verpligt wezen aan den gekozen Commandant-Generaal, van de op hem gevallene keuze kennis te geven.

101. Zij worden aangesteld voor een onbepaalden tijd,[1] en zijn bij aftreding verkiesbaar. De Commandant-Generaal zal van zijn post ontslagen of ontzet worden, bij overtuiging van misdaden, vermeld in art. 65.

102. Voor elk district zullen niet meer dan twee [2] commandanten gekozen worden.

103. De krijgsmagt met uitzondering der gekleurde huurlingen,

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it shall be the duty of every inhabitant to obey the authorities of the field-cornetcy or the district to which he belongs.

99. The men shall be under the command of the following officers according to their rank from the lowest to the highest: Assistant Field-cornets; Field-cornets; Commandants; Commandant-General.

100. The Officers are chosen by majority of votes, viz.: Assistant Field-cornets and Field-cornets by the burghers of the wards who possess the franchise, and in like manner the Commandants by the burghers of the district who possess the franchise, and the Commandant-General by all the burghers possessing the franchise in this Republic. The voting-papers for the election of officers shall be sent to the Landdrost, whose duty it shall be to send them to the Executive Council. It shall be the duty of the Executive Council to give notice to the elected Commandant-General of the choice that has fallen upon him.

101. They shall be appointed for an indefinite time,[1] and on vacating their offices they shall be eligible for re-election. The Commandant-General shall be dismissed from office or discharged on conviction of the crimes mentioned in art. 65.

102. For each district not more than two Commandants [2] shall be chosen.

103. The military force, with the exception of the coloured

mandant and Commandant-General were abolished in time of peace. *Locale Wetten der Z.A. Rep.* I. 520.

[1] The 1889 Grondwet, art. 99, said: "The Commandant-General for 10 years, the Commandants for 5 years and Field-cornets for 3 years."

[2] The 1889 Grondwet, art. 100, provided for only one.

wordt opgeroepen tot handhaving van orde: tot commando's ter gelegenheid van binnenlandsche opstanden; en zonder eenige uitzondering, tot verdediging des lands en tot beoorloging van buitenlandsche vijanden.

104. Is opgedragen aan de Adsistent Veldcornetten en Veldcornetten, de handhaving van orde; aan de Commandanten, de commando's ter zake van binnenlandsche opstanden der kleurlingen; aan den Commandant-Generaal de commando's tot demping van onlusten onder de blanke bevolking, de verdediging des lands en het beoorlogen van buitenlandsche vijanden; in welke gevallen de Commandant-Generaal het opperbevel over het geheele leger zal hebben.

105. Wordt verstaan door:

(*a*) *Handhaving van orde:* de nakoming der wetten, de ten uitvoerlegging der vonnissen na ontvangen order; en de inachtneming der maatregelen van algemeen en plaatselijk belang; voorts het opzigt over de kleurlingen en het tegengaan van landlooperij en vagebonden in de veldcornetschappen.

(*b*) *Commando's ter zake van opstanden der kleurlingen;* het tot pligt brengen van binnenlandsche Kaffer-opperhoofden.

(*c*) *Commando's tot demping van onlusten onder de blanke bevolking;* het aanvoeren van voldoende magt naar het district waar de onlusten zijn uitgebroken, en door

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hired servants, shall be called up for the preservation of order, for commandos in case of internal insurrections; and without any exception, when the country has to be defended or war has to be waged against foreign enemies.

104. To the Assistant Field-cornets and Field-cornets is entrusted the preservation of order; to the Commandants the commandos, in case of internal insurrections of the coloured population; to the Commandant-General the commandos for the suppression of disaffection amongst the white population, for the defence of the country and for waging war against foreign enemies, in which last cases the Commandant-General shall have the supreme command of the whole army.

105. (*a*) By *maintenance of order* is understood seeing to the observance of the laws, the execution of sentences on receipt of an order to that effect, the observance of measures of general and local concern, besides the supervision of the coloured population and the suppression of vagrancy and vagabonds in the field-cornetcies.

(*b*) By *commandos in case of insurrection of the coloured people* is understood keeping the Kaffir-chiefs to the performance of their duty.

(*c*) By *commandos for the suppression of disaffection among the white population* is meant conducting a sufficient force to the district where such disaffection has arisen.

(*d*) *Verdediging des lands en het voeren van oorlog ;* het ten uitvoer brengen van de oorlogswet (zie art. 26 en art. 70), het te velde trekken aan het hoofd des legers.

106. Al de orders ontvangen de onderhoorigen van de boven hen gestelde officieren en ambtenaren.

107. Al de officieren, uitgenomen de Commandant-Generaal, zullen voor het aanvaarden hunner betrekking beëedigd worden door den President van den Uitv. Raad, overeenkomstig art. 80 ; en de Commandant-Generaal zal voor den Volksraad beëedigd worden, overeenkomstig arts. 91 en 108.

108. Hun eed zal zijn van den volgenden inhoud :

" Ik beloof en zweer plegtig trouw aan het volk dezer Republiek ; in mijne betrekking naar wet, regt en billijkheid te zullen handelen ; volgens mijn beste kennis en geweten, zonder aanzien des persoons ; dat ik aan niemand eenige gift of gunst gedaan of beloofd heb om tot die betrekking te geraken ; van niemand eenige gift of gunst te zullen aannemen wanneer ik vermoeden kan dat deze gedaan of bewezen zou worden om mij in mijne betrekking ten voordele van den gever of begunstiger over te halen ; te zullen gehoorzamen aan de bevelen der boven mij gestelden, volgens de wet, en niets anders te beoogen

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(*d*) By *defence of the country and the waging of war* is understood the carrying out of the War Ordinance (see arts. 26 and 70), and taking the field at the head of the army.

106. The subordinate officers shall receive all their orders from the officers and officials placed above them.

107. All the officers, the Commandant-General only excepted, shall, before entering on the duties of their office, take an oath before the President of the Executive Council according to art. 80 ; and the Commandant shall be sworn before the Volksraad, according to arts. 91 and 108.

108. Their oath shall be of the following tenor :

" I solemnly promise and swear fealty to the people of this Republic ; to act according to law, justice, and equity in my office, to the best of my knowledge and according to the dictates of my conscience, without respect of persons ; that I have not bestowed or promised any gift or favour to any one in order to obtain that office ; that I will not accept any gift or favour from any one when I can suspect that it might be done or bestowed in order to influence me in the exercise of my office in favour of the donor or giver ; to obey the commands of those placed above me according to law ; and to aim at nothing but

dan den bloei, de welvaart en onafhankelijkheid van het land en volk dezer Republiek.

109.* Ingeval niet wordt voldaan aan de gedane oproeping, of aan de bevelen van de bevoegde magt, zullen de nalatigen met de volgende boeten gestraft worden, te weten :

De manschappen naar gelang van omstandigheden, van Rds. 5 tot 40, te bepalen door de Veldcornetten, die deswege verantwoordelijk zijn zullen aan hunne Commandanten, die daaromtrent volgens art. 123 zullen handelen.
De Assistent-Veldcornetten met Rds. 10 tot 50.
De Veldcornetten met Rds. 25 tot 75.
De Commandanten met Rds. 25 tot 500.
De Commandant-Generaal, niet voldoende aan de bevelen van den President van den Uitvoerenden Raad, met Rds. 50 tot 2000 en verder naar den aard der zaak.

110. De Veldcornetten zullen, buiten wettige verhindering alle drie maanden verslag doen aan de Landdrosten van hetgeen met en omtrent hunne onderhoorigen in de wijken in de afgeloopene maanden is voorgevallen ; en zoovele malen, buiten dien tijd als een rapport onmiddelijk vereischt wordt. Betreffende krijgszaken zal de Veldcornet ook verpligt en gehouden zijn om, behalve aan den landdrost, ook aan den boven hem gestelden Commandant verslag te geven en

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the progress, welfare, and independence of the territory and the people of this Republic.

109.* In case the call for service is not responded to, or the commands of the competent authority are not obeyed, the defaulters shall be punished with the following fines, to wit :

The men, according to circumstances, from 5 to 40 Rix-dollars, to be decided on by the Field-cornets, who, in this matter shall be responsible to their Commandants, who shall act in the matter according to art. 123.
The Assistant Field-cornets with from 10 to 50 Rix-dollars.
The Field-cornets with from 25 to 75 Rix-dollars.
The Commandants with from 25 to 500 Rix-dollars.
The Commandant-General, not complying with the commands of the President of the Executive Council, shall be punished with from 50 to 2000 Rix-dollars, and further according to the nature of the case.

110. The Field-cornets shall, there being no lawful impediment, report every three months to the Landdrosts concerning what has happened to or with their subordinates in the wards during the months that have elapsed ; at other times a report shall be made as often as it shall seem urgently necessary. Regarding matters of war the Field-cornet shall also be obliged to report to the Commandant placed over him as well as to

te rapporteren. Daaraan niet voldoende, of bij nalatigheid, zal hij beboet worden met Rds. 10.

111. De Commandanten zenden de bij hen ingekomene drie maandelijksche verslagen der Veldcornetten, met bijvoeging van hun eigen verslag, benevens hunne aanmerkingen aan den Commandant-Generaal. Deze handelt desgelijks met de verslagen der Commandanten, bij de toezending van zijn verslag aan den President van den Uitv. Raad, en zonder oponthoud moeten die verslagen naar den President verzonden worden.

112.* In tijd van oorlog of wanneer een commando in het veld is, zal de Krijgsraad bijeengeroepen worden door den Commandant-Generaal, wanneer hij zulks noodig acht, of als er beschuldigingen zijn ingekomen tegen officieren of manschappen, ter zake van overtredingen, wangedrag of misdaden begaan of gepleegd. De krijgsraad zal bestaan uit al de officieren en ambtenaren die aanwezig zijn.

113.* Die krijgsraad kan ook belegd worden :

(*a*) Bij commandos ter zake van opstand der kleurlingen.

(*b*) Bij commandos tot demping van onlusten onder de blanke bevolking.

(*c*) Bij verdediging des lands of het voeren van oorlog.

De hoogste officier in rang zal daarvan voorzitter en een der leden, of een daartoe door den Commandant-Generaal aangewezen persoon, secretaris zijn. Allen zullen gelijke stem hebben. Bij meerderheid

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the Landdrost. In case of non-compliance herewith, or of neglect, he shall be fined 10 Rix-dollars.

111. The Commandants shall forward the three-monthly reports of the Field-cornets made to them to the Commandant-General, together with their own report and remarks thereon. The latter shall act in the same manner with the reports of the Commandants when submitting his report to the President of the Executive Council, and these reports must be sent to the President without delay.

112.* In time of war, or when a commando is in the field, the War Council shall be summoned by the Commandant-General whenever he may deem it necessary, or when accusations have been brought against any of the officers or men in case of transgressions, misconduct or crimes committed or perpetrated. The War Council shall consist of all the officers and officials who are present.

113.* The War Council may also be summoned :

(*a*) On commando, in case of a rising of the coloured people.

(*b*) On commando, for the suppression of disaffection among the white population.

(*c*) While defending the country or waging war.

The officer of highest rank shall be chairman thereof, and one of the members, or some other person pointed out by the Commandant-General, shall act as secretary. All shall have

van stemmen wordt besloten en bij gelijkheid [1] van stemmen zal de stem van den voorzitter beslissend zijn.

114.* De dienstdoende leden van den Volksraad, vermeld in Art. 44, de landsambtenaren, de kerkelijke beambten, de geordende schoolonderwijzers, en de negotianten, kunnen niet in persoon tot den krijgsdienst worden opgeroepen, dan wanneer de oorlogswet is afgekondigd.

115.* Ook zijn van persoonlijke krijgsdienst verschoond: de eenige zonen van weduwen; zij die zoodanige lichaams-gebreken hebben, welke hen tot de krijgsdienst ongeschikt maken; en zij die zoodanige wettige en gegronde verontschuldigingen kunnen bijbrengen, om daarvan verschoond te wezen; een en ander ter beoordeeling der Veldcornetten, die weder deswege verantwoording schuldig zijn aan hunne Commandanten.

116.* De manschappen tusschen de 16 en 60 jaren, die van persoonlijken krijgsdienst zijn vrijgesteld, zullen ten behoeve van den dienst vermeld in art. 105, onder de letters *b*, *c*, *d*, bijdragen moeten doen, waarvan het bedrag bij ordonnantie van den Uitv. Raad nader zal geregeld worden.

117.* Die bijdragen zullen door den Veldcornet gevorderd en aan hem geleverd moeten worden, binnen den tijd door hem te bepalen.

118.* De nalatige, in de nakoming van art. 117, zal gestraft worden met eene boete van 5 tot 10 Rds., op te leggen naar bevinding

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votes of equal value. Decisions shall be taken by majority of votes, and when the voting is equal [1] the chairman shall have a casting vote.

114.* The members of the Volksraad actually engaged in their duties as members, as mentioned in art. 44, the public officials, the church officials, the approved schoolmasters, and the shopkeepers, shall not be called up for personal service, except when the war ordinance shall have been proclaimed.

115.* The following persons shall also be exempt from personal military service: The only sons of widows, those who have such bodily infirmities as make them unfit for military service, and those who can show such lawful and well-founded reasons as will exempt them therefrom; all of which shall be subject to the decision of the Field-cornets, who in their turn shall be responsible to their Commandants.

116.* The men between the ages of 16 and 60, who shall be exempt from personal military service, shall, for the promotion of the service mentioned in art. 105, sections *b*, *c*, and *d*, make contributions, the amounts of which shall be specified by ordinance of the Executive Council.

117.* Those contributions shall be collected by the Field-cornet, and must be delivered to him within a time to be fixed by him.

118.* Those who do not comply with art. 117 shall be punished with a fine of 5 to 10 Rix-dollars, to be levied according to the nature and circumstances of the case. In the event

[1] The text has, "when the voting is unequal" (*bij ongelijkheid van stemmen*), which is obviously an error.

van zaken en omstandigheden. Ingeval van onvermogen om de bijdragen te kunnen leveren zal de Veldcornet die, overeenkomstig dat onvermogen, regelen.

119. De Veldcornetten zullen eene lijst houden van de dienstpligtigen hunner wijken, en die lijst zoodanig inrigten, dat daaruit blijkt, wie ter handhaving van orde, bedoeld in letter *a*, art. 105, moet opgeroepen worden, opdat de diensten van de manschappen evenredig onder hen verdeeld worden.

120.* De krijgsofficieren, die zonder voldoende reden bedanken of weigeren de op hun uitgebragte keuze, of de hen opgedragen betrekking te aanvaarden, zullen de volgende boeten moeten voldoen, te weten :

Een Veldcornet, Rds. 25,
Een Commandant, Rds. 100, en de
Commandant-Generaal, Rds. 200.

121. De Commandant-Generaal heeft zitting in den Uitvoerenden Raad als lid van denzelven.

122. In het veld heeft de Commandant-Generaal het oppertoezigt over krijgsammunitie van den Staat. [Zie verder daaromtrent art. 81.]

123. De Commandanten en Veldcornetten voldoen aan de bevelen der Landdrosten, voor zoo verre zij volgens de bepaling der wetten, omtrent de regterlijke administratieve Magt daarmede in aanmerking komen.

124. Van de overtredingen vermeld in de artikelen 109, 110, 118,

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of inability to make the contributions, the Field-cornet shall arrange such contributions according to the extent of such inability.

119. The Field-cornets shall keep a list of those liable to military service in their respective wards, and shall arrange such list in such a manner as to show who must be called up for the preservation of order in terms of section *a* of art. 105, in order that the services of the men may be equally divided.

120.* The military officers, who, without sufficient cause, shall resign or decline to accept the election fixed upon them, or to enter on the duties of the office assigned to them, shall be liable to pay the following fines, to wit :

A Field-cornet, 25 Rix-dollars,
A Commandant, 100 Rix-dollars, and the
Commandant-General, 200 Rix-dollars.

121. The Commandant-General shall have a seat in the Executive Council as a member of the same.

122. In the field the Commandant-General shall have the chief supervision of the war material of the State. [See further art. 81 hereon.]

123. The Commandants and Field-cornets shall comply with the commands of the Landdrosts in so far as they shall be subject to the administrative judicial authority according to the provisions of the laws relating thereto.

124. Of the non-compliance mentioned in articles 109, 110,

en 120,[1] wordt door de officieren kennis gegeven aan de Landdrosten hunner districten, die voor de invordering der boeten zullen zorg dragen.

125.* Alle buitgemaakte goederen worden gelijkelijk onder de dienstdoende burgers, die in het veld geweest zijn verdeeld; met het voorbehoud echter van den aftrek:

1. Van de vergoeding naar evenredigheid van schaden, door de uitvoering van een commando veroorzaakt, aan wagens, paarden en trekvee;
2. Van de oorlogskosten door het Gouvernement uitbetaald;
3. Van een onderstand en belooning voor zwaar gekwetste burgers; en
4. Van een fonds, tot ondersteuning van weduwen en weezen der gesneuvelde burgers.

126. Eene maand na afloop van een commando, zal de President van den Uitvoerenden Raad zorg dragen, dat door tusschenkomst der Landdrosten aan de zwaargekwetsten, de weduwen en weezen der gesneuvelden, het hun in het vorig artikel toegewezen deel uit den buit toekome.

OVER DE REGTERLIJKE MAGT EN DE REGTSBEDEELING.

127.[2] De regterlijke magt wordt uitgeoefend door Landdrosten,

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118, and 120,[1] notice shall be given by the officers to the Landdrosts of their districts, who shall see to the collection of the fines.

125.* All goods taken as spoil shall be equally divided among the burghers who were on active service in the field; save and except the following deductions:

1. Of the amounts due as compensation in due proportions for damage done to wagons, horses and draught cattle by causing the commandos to operate;
2. Of the war expenses defrayed by the Government;
3. Of maintenance and compensation for wounded burghers; and
4. Of a fund for the support of the widows and orphans of burghers killed in the war.

126. One month after the termination of a commando the President of the Executive Council shall see to it that, through the medium of the Landdrosts, the seriously wounded and the widows and orphans of those killed, shall receive the portion of the spoil assigned them in the last preceding article.

ABOUT THE JUDICIAL POWER AND THE ADMINISTRATION OF JUSTICE.

127.[2] The judicial power shall be exercised by Landdrosts,

[1] Of these numbers 109, 118, and 120 were omitted from the 1889 Grondwet, art. 113.

[2] *Vide* art. 115 of the 1889 Grondwet, below.

Heemraden en Gezworenen, met toevoeging van Klerken en Geregtsboden, en zoo noodig met den bijstand der Veldcornets.

128. De Landdrosten worden door den Uitvoerenden Raad aan het volk voorgedragen; telkens wanneer de plaats van Landdrost vacant is, zal de Uitvoerende Raad 1 of 2 personen aan het publiek voorstellen, om uiterlijk binnen den tijd van twee maanden hunne goed-of afkeuring daarover aan den Uitvoerenden Raad schriftelijk in te leveren. De Landdrosten moeten twee [1] jaren stemgeregtigde burgers, lidmaten der Nederduitsch-Hervormde Gemeente [2] zijn, geen onteerend vonnis ten hunnen laste gehad, en den ouderdom van 30 jaren bereikt hebben, en vaste goederen binnen het grondgebied dezer Republiek bezitten.

129.* De Heemraden worden door het Hof van Landdrost en Heemraden gekozen, onder kennisgeving daarvan aan den Uitvoerenden Raad. Telkens wanneer een Heemraad gekozen wordt, zal die keuze eene maand ter goed-of afkeuring aan het publiek worden bekend gemaakt. Zij worden na de goedkeuring aangesteld, voor den tijd van twee jaren, en zijn bij aftreding herkiesbaar. Zij moeten twee jaren stemgeregtigde burgers, lidmaten van de Nederduitsch-Hervormde Gemeente zijn, geen onteerend vonnis ten hunnen laste gehad, en den ouderdom van 30 jaren bereikt hebben.

Heemraden and Jurors, with the addition of Clerks and Messengers of the court, and, if necessary, with the assistance of the Field-cornets.

128. The Landdrosts shall be proposed to the people by the Executive Council; whenever the office of Landdrost shall become vacant, the Executive Council shall propose 1 or 2 persons to the public, who shall, within two months at the latest, hand in their approval or disapproval to the Executive Council in writing. The Landdrosts shall be burghers possessing the franchise for two [1] years, shall be members of the Dutch Reformed Congregation,[2] shall not have had any dishonouring sentence passed against them, shall have reached the age of 30 years, and shall be possessors of immovable property within the territory of this Republic.

129.* The Heemraden shall be chosen by the Court of Landdrost and Heemraden while giving notice thereof to the Executive Council. Whenever a Heemraad shall have been chosen, such choice shall be notified to the public during one month for their approval or disapproval. They shall, after such approval, be appointed for the term of two years, and on leaving office they shall be eligible for re-election. They shall have been burghers possessing the franchise for two years, members of the Dutch Reformed Congregation, shall not have had any dishonouring sentence passed against them, and shall have reached the age of 30 years.

[1] This was altered to *one year* by resolution of the Volksraad, dated Sept. 1858. *Locale Wetten der Z.A. Rep.* I. 104.

[2] The 1889 Grondwet, art. 116, said: "members of a Protestant Church."

130. De Landdrosten zullen tevens vóór de aanvaarding hunner betrekking, twee door den President van den Uitvoerenden Raad goedgekeurde borgen moeten stellen ; te zamen ten bedrage van Rds. 5,333, 2, 4 elke borg voor 2,666, 5, 2 Rds., ter verzekering van alle geldelijke administratiën, die aan hen zullen worden toevertrouwd. Die borgen moeten vaste en onbelaste eigendommen in deze Republiek bezitten.

131. De gezworenen zullen stemgeregtigde burgers zijn, geen onteerend vonnis ten hunnen laste gehad, en den ouderdom van 30 jaren bereikt hebben.

132.* De Landdrosten zullen met de Heemraden eene lijst opmaken, van de inwoners hunner districten, die als gezworen kunnen opgeroepen worden ; en zoodanig dat de oproeping bij beurten gelijk onder hen verdeeld worden.

133. De oproeping der gezworenen geschiedt zoodanig in tijds dat zij buiten de reis drie vrije dagen tot hunne beschikking hebben.

134.* De klerken zullen stemgeregtigde burgers wezen, geen onteerend vonnis ten hunne laste gehad, en den ouderdom van 21 jaren bereikt hebben, zij en de geregtsboden worden op voordragt van den Landdrost door den President van den Uitvoerenden Raad aangesteld. Zij moeten drie maanden van te voren kennis geven voordat zij kunnen ontslagen worden.

135. De verkozenen tot Landdrosten en Heemraden zullen, indien

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130. The Landdrosts shall also, previous to their entering on the duties of their office, give two sureties who must be approved of by the President of the Executive Council, together for the amount of 5,333..2..4 Rix-dollars and each surety for 2,666..5..2 Rix-dollars for the security of all monetary administration which may be entrusted to their care. Such sureties must be in possession of unencumbered immovable property in this Republic.

131. The jurors shall be burghers possessing the franchise, shall have had no dishonouring sentence passed against them, and have reached the age of 30 years.

132.* The Landdrosts, with the Heemraden, shall frame a list of the inhabitants of their districts who are liable to be summoned as jurors, in such a manner that the summoning shall fall evenly on all the inhabitants in turn.

133. The summoning of jurors shall take place in time and in such a manner that they shall have three days, exclusive of the time required for their journey, at their disposal.

134.* The clerks shall be burghers possessing the franchise, shall not have had any dishonouring sentence passed against them and shall have reached the age of 21 years. They and the messengers of the court shall be appointed by the President of the Executive Council on the recommendation of the Landdrost. They must give three months' notice before they can be discharged.

135. Those elected as Landdrosts and Heemraden shall,

zij bedenkingen tegen de op hen uitgebragte keuze meenen te moeten maken, die bedenkingen binnen de eerste 30 dagen, nadat die keuze op hen gevallen is, de verkozene tot Landdrost, aan den President *en die tot Heemraden verkozen is, aan het Hof*[1] inzenden.

136. Indien zij binnen dien tijd geen bedenkingen inzenden, dan worden zij beschouwd die betrekkingen te aanvaarden.

137.* De Heemraden die zonder voldoende redenen voor de verkiezing bedankt, zal vervallen in eene boete van Rds. 25.

138. De gezworene die niet voldoet aan de oproeping, vermeld in art. 132, wordt beboet met Rds. 100, tenzij hij redenen van verschooning kan bijbrengen, voorzien in art. 37.

139. De Landdrosten leggen vóór het aanvaarden hunner betrekking den volgenden eed, in handen van den President en de leden van den Uitvoerenden Raad af; *en de Heemraden denzelfden eed, in handen van het Hof van Landdrost en Heemraden.*[1]

> "Ik beloof en zweer plegtig trouw aan het volk en de wetten dezer Republiek, in mijne betrekking en ambt regtvaardig, billijk, zonder aanzien des persoons, overeenkomstig de wetten, en naar mijn beste kennis en geweten te zullen handelen; van niemand eenige gift of gunst te zullen aannemen, wanneer ik vermoeden kan dat deze gedaan of bewezen zou worden om mij in mijne uitspraak of handeling ten voordeele van den gever of begunstiger over te halen; buiten mijne betrekking

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if they desire to object to the choice fallen on them, send in such objections within 30 days after their election, the elected Landdrost to the President, *and the elected Heemraden to the Court.*[1]

136. If they make no objections within such time, then they shall be regarded as willing to accept the office.

137.* The Heemraden who resign without sufficient cause shall be liable to a fine of 25 Rix-dollars.

138. Any juror who does not comply with the summons, as set forth in art. 132, shall be liable to a fine of 100 Rix-dollars, unless he is able to assign such reasons for exemption as are provided for in art. 37.

139. The Landdrosts shall, before entering on the duties of their office, take the following oath before the President and members of the Executive Council, *and the Heemraden shall take the same oath before the Court of Landdrost and Heemraden*:[1]

> "I promise and solemnly swear fealty to the people and laws of this Republic in my position and office, to act justly, equitably, and without respect of persons, according to law, to the best of my knowledge and according to the dictates of my conscience; that I shall not accept any gift or favour from any person when I can suspect that the same might be made or bestowed to influence me in my decision or acts in favour of the giver

[1] The italicised words were omitted from the 1889 Grondwet.

als regter te zullen gehoorzamen volgens de wet aan de bevelen der boven mij gestelden, en in het algemeen niets anders te beoogen dan de handhaving van wet, regt en orde, tot bevordering van den bloei, de welvaart en de onafhankelijkheid van land en volk."

140. De gezworenen zullen, vóór dat zij zitting *in het Hof van Landdrosten en Heemraden* [1] nemen, den volgenden eed *in handen van Landdrost en Heemraden* [1] afleggen :

[De eed is na genoeg zooals die bij art. 139.[2]]

141.* De klerken zullen voor de aanvaarding hunner betrekking in handen van den Landdrost den volgenden eed afleggen :

[Eed weggelaten.]

142.* [De eed der geregtsboden.]

143.* In ieder district zullen de volgende geregtshoven zijn, als :

Een hof van den Landdrost.

Een hof van den Landdrost, en 6 of ten minste 4 Heemraden.[3]

En daarboven :

Een hoog-geregtshof, mede voor het geval bedoeld in art. 34 en 53,[5] zamengesteld uit 3 Landdrosten [4] en 12 gezworenen.

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or bestower ; outside my office as judge, to obey the commands of those placed above me, according to law ; and in general to aim at nothing but the preservation of law, justice and order, for the promotion of the prosperity, welfare and independence of the country and the people."

140. The jurors shall, before taking their seats *in the Court of Landdrost and Heemraden,*[1] take the following oath *before the Landdrost and Heemraden* :[1]

[The oath is rather similar to the one prescribed in art. 139.[2]]

141.* The clerks shall, before entering on the duties of their post, take the following oath before the Landdrost :

[Oath not copied.]

142.* [Oath prescribed for the messengers of the Court.]

143.* In every district there shall be the following Courts of Justice :

A Court of the Landdrost.

A Court of the Landdrost and 6 or at least 4 Heemraden.[3]

And above these :

A High Court of Justice consisting of 3 Landdrosts [4] and 12 Jurors intended also for the purpose indicated by arts. 34 and 53.[5]

[1] The italicised words were omitted from the 1889 Grondwet.

[2] Further provisions were added by resolution of the Volksraad, dated Sept. 1858. *Vide* below, p. 418.

[3] Law No. 3, 1881, in describing the various courts of law made no mention whatever of the Court of Landdrost and Heemraden. It was resolved in 1873 to have six Heemraden in each of these courts.

[4] This was altered to " 2 or 3 Landdrosts " by resolution of the Volksraad, dated Sept. 1858.

[5] This Court was abolished in 1881.

De uitspraak van dat hof zal uiteindelijk beslissend wezen.
De Landdrost, die het vonnis in eersten aanleg heeft geveld, zal geen zitting in het hooge geregtshof hebben; maar bij de behandeling der zaak moeten tegenwoordig zijn.
Bij al de genoemde geregtshoven, zal een klerk en geregtsbode aanwezig zijn.

144*. Het hoog geregtshof, bedoeld by art. 143, zal ten minste tweemaal in het jaar de districten der Republiek, waar crimineele zaken zijn, bezoeken. Uitgezonderd die districten waar geen crimineelen zaken, en minder dan 5 civiele zaken te behandelen zijn. Zijn er minder dan 5 civiele zaken in een district te behandelen, dan zullen deze kunnen voorkomen op de naastbijgelegene plaats, waar dat hoog geregtshof zitting moet houden.[1]

145. De Veldcornetten zullen de geschillen tusschen de inwoners hunner wijken, zooveel mogelijk bijleggen, en het voeren van processen voorkomen. Tot dat einde wordt een ieder geregtigd om dengeen met wien hij in geschil is, op een door den Veldcornet te bepalen tijd voor dezen te ontbieden. Door partijen zullen de kosten, door den Veldcornet te maken, volgens tarief betaald worden.

146.* Geen eisch zal door eenig Hof in aanmerking genomen worden, zonder dat de eischer eene behoorlijke dagvaarding, door den Landdrost uitgereikt, aan zijne tegenpartij door den geregtsbode heeft doen toekomen.

The decision of this Court shall be final and decisive.
The Landdrost who has pronounced sentence in the first instance shall have no seat in the High Court of Justice, but shall, nevertheless, attend during the hearing of the case.
To each of the above Courts there shall be attached a clerk and messenger.

144.* The High Court of Justice, mentioned in art. 143, shall at least twice a year visit the districts of the Republic where there are criminal cases, those districts, however, excepted where there are no criminal cases and less than 5 civil cases to be tried. If in any district there are less than 5 civil cases to be tried, then these may be brought up at the nearest centre where the High Court must hold a session.[1]

145. The Field-cornets shall, as far as possible, settle the differences between the inhabitants of their wards, and thus avoid litigation. For that purpose any one is entitled to summon a person, with whom he is in dispute, before the Field-cornet at a time to be appointed by the latter. The parties shall pay the expenses incurred by the Field-cornet, to be fixed according to tariff.

146.* No Court shall take cognizance of any claim where the plaintiff has not taken out a proper summons, issued by the Landdrost, and served by the messenger of the Court on the opposite party.

[1] Further provisions were added by resolution of the Volksraad, dated Sept. 1858. *Vide* below.

147.* [De kosten dier dagvaarding.]

148.* [Alle dagvaardingen om voor de geregtshoven te verschijnen, moeten in tijds aan de gedaagden toegezonden worden.]

149. Alle vonnissen, zoo in burgerlijke als in lijfstraffelijke zaken, worden in het openbaar uitgesproken en ten uitvoer gelegd, in naam van het volk der Zuid-Afrikaansche Republiek. De lijfstraffen aan blanke misdadigers in deze Republiek op te leggen, zullen zijn :

Gevangenschap ;

Dwang-arbeid, met of zonder ijzers, naar den aard der zaak ; [1] en

De Dood.

Geen blanke zal tot slagen aan den lijve kunnen worden veroordeeld.

150.* In alle burgerlijke zaken zal uitspraak gedaan en vonnis geveld worden door den Landdrost, omtrent eischen wier bedrag vijf honderd Rds., of minder zijn ; wanneer evenwel de vorderingen uit schuldbewijzen of acceptatien bestaan, zal hij geregtigd zijn uitspraak te doen en vonnis te vellen over zaken van hooger bedragen, niet te bovengaande Rds. 5000. Door het Hof van Landdrost en Heemraden, wanneer de vorderingen meer dan Rds. 500, en de schuldbewijzen of de acceptatien hooger dan Rds. 5000 zijn.

151.* Van alle vonnissen in eersten aanleg geveld en waarbij eischer en gedaagde tegenwoordig waren, zal zijn beroep of appèl, te weten :

147.* [The fees for such summons.]

148.* [All summonses to appear before the Courts shall be served on the defendant in time.]

149. All sentences in civil as well as criminal cases shall be delivered and executed in public in the name of the people of the South African Republic. The criminal punishments to which white offenders shall be liable in this Republic shall be :

Imprisonment,

Hard labour, with or without chains, according to the nature of the case,[1] and

Death.

No white person shall be condemned to undergo corporal punishment.

150.* In all civil cases the decision shall be given and the judgment passed by the Landdrost in cases where the claim is for 500 Rix-dollars or less ; but should those claims arise from acknowledgments of debt or acceptances, he shall be authorised to decide and pass judgment in cases involving larger sums, but in none exceeding 5000 Rix-dollars. The decision shall be given and judgment passed by the Court of Landdrost and Heemraden when the claim is for a higher sum than 500 Rix-dollars, and the acknowledgment of debt or the acceptance for a greater amount than 5000 Rix-dollars.

151.* From all judgments delivered in the first instance, and where the plaintiff and defendant were present, appeal shall be allowed, to wit :

[1] The 1889 Grondwet, art. 127. added " transportation or banishment."

Van vonnissen uitgesproken door het Hof van den Landdrost, voor het Hof van Landdrost en Heemraden; van het Hof van Landdrost en Heemraden, voor het Hoog geregtshof bedoeld in arts. 143 en 144, mits het beroep of appèl binnen den tijd van acht dagen nà de uitspraak van het vonnis, opgegeven wordt aan den Landdrost van het hof, en daarvoor de na te melden betaling, bedoeld in art. 153, gedaan zij.

152.* [Kosten van de vonnissen der geregtshoven.]

153. [De eischers in beroep zullen ook betalen.]

154. [Betaling voor afschriften der stukken door partijen gevorderd.]

155*. [De verdiensten van den geregtsbode.]

156. [Onvermogenden kunnen van de betaling vrijgesteld worden.]

157. [De zittingen der geregtshoven zullen gehouden worden op zekere uren.]

158.* Ingeval van wettige verhindering van den Landdrost zal zijne betrekking door een der Heemraden worden waargenomen, die ook alsdan zijne voorzittersplaats zal bekleeden.

159.* Voor ieder district worden gekozen zes Heemraden, van welke ten minste twee op het dorp moeten woonachtig zijn. De Landdrost met vier Heemraden zullen een voltallig Hof uitmaken.

160.* Is een Landdrost of Heemraad niet op den bij art. 157 bepaalden tijd aanwezig of voldoet een Heemraad niet aan de oproeping van den Voorzitter van het Hof, dan wordt bij beboet met Rds. 1 tot 50,

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From judgments pronounced by the Landdrost's Court to the Court of Landdrost and Heemraden; from the Court of Landdrost and Heemraden to the High Court of Justice mentioned in arts. 143 and 144; provided the appeal be notified to the Landdrost within eight days after judgment shall have been given, and after payment of the amount to be stated hereinafter in art. 153 has been made.

152.* [The costs of the judgments of the Courts.]

153. [The appellants shall also deposit sums for an appeal.]

154. [Charges for copies of papers required by the parties.]

155.* [Salary of the messenger of the Court.]

156. [Those unable to pay may be exempted from costs of litigation.]

157. [The sittings of the Courts shall be held at fixed times.]

158.* In case a Landdrost is prevented for lawful reasons from performing his duties, his office shall be filled by one of the Heemraden, who shall also for the time take his place as chairman.

159.* For every district six Heemraden shall be elected, of whom at least two shall reside in the village. The Landdrost and four Heemraden shall constitute a full Court.

160.* A Landdrost or Heemraad not being present at the appointed time fixed by art. 157, or a Heemraad not complying with the call of the Chairman of the Court, shall be

naar den aard der zaak. Voor gegronde redenen zullen aangenomen worden dezulke die vermeld zijn onder art. 38.

161. [De klerk kan bij niet nakoming van zijn plicht gesuspendeerd worden.]

162.* De Heemraden en Gezworenen genieten Rds. 4 voor iederen dag dat zij de zitting der Geregtshoven bijwonen.

163.* De in art. 143 genoemde Geregtshoven zullen tevens in eersten aanleg kennis nemen, uitspraak doen en vonnis vellen in alle lijfstraffelijke zaken, te weten :

Het Hof van den Landdrost in zaken van overtredingen, rustverstoringen, enz., waaromtrent geen hooger straffen bepaald zijn dan 3 maanden gevangenis met of zonder geldelijke boeten, tot een beloop van Rds. 100. Het Hof van Landdrost en Heemraden in zaken van wangedrag, waaromtrent de straffen niet hooger loopen dan drie jaren gevangenis, met of zonder dwangarbeid en geldelijke boete, tot beloop van Rds. 500; en het Hooge Geregtshof in zaken van misdaad en anderen, waaromtrent hooger straffen dan de hier vermelde moeten uitgesproken worden.

164. De Geregtshoven zullen bij de bepaling der straffen in het oog houden, dat daar dezelfde straf voor den een ligter of zwaarder kan

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fined with from 1 to 50 Rix-dollars according to the nature of the case. As well-founded grounds of excuse shall be accepted those mentioned in art. 38.

161. [A clerk who does not fulfil his duties is liable to be suspended.]

162.* The Heemraden and Jurors shall receive 4 Rix-dollars for each day on which they attend the sittings of the Courts of Justice.

163.* The Courts of Justice mentioned in art. 143 shall also in the first instance take cognizance of, pass judgment and give sentence in criminal cases, to wit :

The Landdrost's Court in cases of transgressions, breaches of the peace, etc., with respect to which no higher punishments have been prescribed than 3 months' imprisonment, with or without a fine amounting to 100 Rix-dollars. The Court of Landdrost and Heemraden in cases of misdemeanour, with respect to which the punishments prescribed do not exceed three years' imprisonment, with or without hard labour and a fine to the amount of 500 Rix-dollars ; and the High Court of Justice in case of misdeeds and in other cases with respect to which more severe punishments than those herein mentioned must be inflicted.

164. The Courts of Justice shall, in passing sentence, bear in mind, that as the same punishment may be lighter or more severe

zijn dan voor den ander, het de bedoeling van de wetgever is, om een ieder wegens gelijke schending van wet ook even zwaar te bestraffen, en dat mitsdien de straffen dienovereenkomstig bepaald moeten worden.

165.* [Over het verminderen van straffen door de Uitv. Raad.]

166.* [De vonnissen bij afwezigheid van eischer of verweerder in eersten aanleg uitgesproken mogen niet dadelijk worden uitgevoerd.]

167.* [De Landdrost kan op verzoek van de schuldeischer voorlopig beslag leggen op de goederen van verweerder.]

168. De Geregtshoven zullen de kennisneming der zaken zooveel mogelijk trachten te bespoedigen, en vervolgens, zoodra mogelijk, uitspraak in dezelve doen.

169. [De Klerk of de Landdrost zal een register houden van alle zaken.]

170.* [Alle vonnissen, magtigingen en oproepingen zullen door den Landdrost ondertekend worden.]

OVER DE ADMINISTRATIVE MAGT OF DE LANDS-AMBTENAREN.

171. De administrative magt, of het inlandsche bestuur, ontleent haar gezag van den Uitvoerenden Raad, en staat onder de bevelen van den President en de leden van den Uitvoerenden Raad.

172.[1] Zij is in handen van Landdrosten en Heemraden, met toe-

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for one person than for another, it is the intention of the legislator to punish every one with equal severity for the same contravention of the law, and that therefore the punishments must be regulated according to this principle.

165.* [About the mitigation of sentences by the Executive Council.]

166.* [Sentences pronounced in the first instance in the absence of plaintiff or defendant shall not be executed immediately.]

167.* [The Landdrost may, on the application of a creditor, grant a provisional attachment on the debtor's property.]

168. The Courts shall as far as possible endeavour to expedite the hearing of cases, and shall give a decision thereon as soon as possible.

169. [The Clerk or the Landdrost shall keep a register of all cases.]

170.* [All judgments, decrees and summonses shall be signed by the Landdrost.]

ABOUT THE ADMINISTRATIVE POWER OR THE PUBLIC OFFICIALS.

171. The administrative power or internal management of the State derives its authority from the Executive Council, and is subject to the commands of the President and members of the Executive Council.

172.[1] It is in the hands of Landdrosts and Heemraden,

[1] The 1889 Grondwet substituted the following article: "137. It is in the hands of such officials as are appointed by law."

voeging van Klerken, Marktmeesters Schutmeesters, Taxateurs en Inspecteurs, en wordt bijgestaan door Commandanten en Veldcornetten.

173. Het grondgebied is voor dat bestuur verdeeld in districten, waartoe behooren afdeelingen en steden of dorpen.

174. Ieder district wordt bestuurd door een Landdrost, *zes Heemraden, met bijvoeging van een Klerk, zoveel Markt- en Schutmeesters als er steden of dorpen in het district zijn, en zooveel Taxateurs en Inspecteurs als thans daartoe zijn, of in het vervolg zullen worden aangewezen.*[1] De Commandanten en Veldcornetten der afdeelingen staan, wat dat bestuur aanbelangt, ten dienste van voornoemde Lands-ambtenaren.

175. Alle publicatien worden in de *Staatscourant* gepubliceerd, en door de Veldcornetten in hunne afdeelingen, door bijeenroeping van de inwoners dier afdeelingen, kenbaar gemaakt.

176. Alle ambtenaren zijn verpligt, om de bij hen ontvangen wordende ambtsbrieven zoodra mogelijk te beantwoorden en aan der zelver in houd te voldoen.

177. [De pligten der Veldcornetten.[2]]

178*–181.* [Over markten en Marktmeesters.]

182.* [Hoe Venduafslagers worden toegelaten.]

183.* [De bepaling vervat in art. 24 der 33 Artikelen, omtrent

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assisted by Clerks, Marketmasters, Poundmasters, Appraisers, and Inspectors, and supported by Commandants and Field-cornets.

173. In order to carry out this form of management the territory is divided into districts composed of wards, and towns or villages.

174. Each district shall be managed by a Landdrost, *six Heemraden assisted by a Clerk, as many Marketmasters and Poundmasters as there are towns or villages, and as many Appraisers and Inspectors as have already been appointed or may be appointed hereafter.*[1] The Commandants and Field-cornets of divisions shall, as regards this administration, render their services to the public officials above mentioned.

175. All publications shall be inserted in the *Government Gazette*, and made known by the Field-cornets in their respective divisions by calling together the inhabitants thereof.

176. It is the duty of all officials to answer any official letters received by them as speedily as possible, and to act in accordance with the matter thereof.

177. [The duties of Field-cornets.[2]]

178.*–181.* [About Markets and Marketmasters.]

182.* [The manner of admitting Auctioneers.]

183.* [The provision contained in art. 24 of the 33 Articles,

[1] The 1889 Grondwet, art. 139, substituted for the italicised words, the following: "assisted by such officials as shall be associated with him by law." *Vide* also the 1889 Grondwet, arts. 140/3, below.

[2] See the instructions issued to Field-cornets, p. 410, *infra*.

het openen van brieven, is bij deze voor vervallen verklaard. Straf bepaling voor het openen van eens anders brieven.]

184.* [Er zullen zijn Weesheeren en een Weeskamer ter plaatse waar de zetel van het Gouvernement is.]

185. [Togtgangers van elders ingekomen moeten een licentie van een Landdrost bekomen.]

186. Het zal niet toegelaten worden dat inkomende personen zich in eenige onbewoonde streken gaan vestigen in deze Republiek, zonder voorkennis en verlof van het Gouvernement van dezen Staat.

187. De Landdrosten worden [1] belast met het toezigt over stad of dorp, benevens over alle ondergeschikte beambten, opdat alle zaken in geregelde orde geschieden.

OVER DE GELD-MIDDELEN VAN DEN STAAT.

188.[2] De inkomsten van den Staat zijn:

(*a*) De winsten op den verkoop van kruit, lood, tin, vuurstenen en percussie-dopjes.
(*b*) Licentien aan Winkeliers, buitenlandsche Togtgangers, Vendu-Afslagers en sterkendrank-verkoopers.
(*c*) Transport-gelden bij overdragt van vaste goederen.
(*d*) Heerenregten of regt van overdragt op den verkoop van onroerende goederen.

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about the opening of letters, is hereby repealed. Punishment prescribed for opening the letters of others.]

184.* [There shall be Orphanmasters and an Orphan Chamber at the seat of Government.]

185. [Itinerant traders coming from other countries shall obtain licenses from a Landdrost.]

186. It shall not be permitted to persons entering the Republic to settle in any uninhabited tracts of this Republic without the knowledge and consent of the Government of this State.

187. The Landdrost is entrusted with the supervision of the town or village,[1] also of the inferior officials, in order that all matters may be conducted in an orderly manner.

ABOUT THE REVENUE OF THE STATE.

188.[2] The Revenue of the State shall consist of:

(*a*) The profits of the sale of gunpowder, lead, tin, flints, and percussion caps.
(*b*) Licenses to shopkeepers, itinerant foreign traders, auctioneers, and sellers of strong liquors.
(*c*) Fees of transfer of immovable property.
(*d*) Heerenrecht, or the right of transfer on the sale of immovable property.

[1] The 1889 Grondwet, art. 149, inserted here the words: "where this is not entrusted to the city or town management."

[2] The 1889 Grondwet merely substituted the following: "150. The revenue of the State and the taxes of the inhabitants are regulated by law."

(*e*) Salarisgeld of regt van overdragt, te betalen door den Vendu-afslager, op den verkoop van roerende goederen.
(*f*) Hofkosten of vergoeding van kosten der Geregtshoven, betaalde gelden voor appèllen, dagvaardingen, enz.
(*g*) Boeten.
(*h*) Markt- en Schutgelden.
(*i*) Commissarisgeld van trouwen.
(*j*) Belasting door het volk te betalen.

189.* [De jaarlijksche licentien voor winkeliers, enz.]

190.* De Licentien tot het houden van een kantien, zal voor ieder een verkrijgbaar zijn.[1] De prijs daarvan zal geregeld worden door den Uitvoerenden Raad, naar den stand der dorpen waar die kantienen zullen gehouden worden.

191.* [Hoeveel aan transport gelden en heerenregt te betalen is.]

192.* Vendu-afslagers zullen geen hooger salaris van Weesboedels mogen nemen, dan van Rds. 5 ten honderd; van alle salarissen zullen zij moeten betalen Rds. 20 ten honderd, ten behoeve van 's Gouvernements-kas.

193.* [Niemand in steden of dorpen zal zonder licentie sterke drank mogen verkoopen.]

(*e*) Fees of transfer to be paid by auctioneers on the sale of movable property.
(*f*) Court fees, or the payment of Court expenses, moneys paid for appeals, summonses, etc.
(*g*) Fines.
(*h*) Market and pound fees.
(*i*) Commissary charges on marriages.
(*j*) Taxes to be paid by the people.

189.* [Amount of annual licenses to be paid by shopkeepers and other traders.]

190.* Every person shall be at liberty to obtain a license for the keeping of a canteen.[1] The fee for such license shall be regulated by the Executive Council according to the circumstances of the villages where such canteens are to be kept.

191.* [The amounts to be paid as transfer duty and heerenrecht.]

192.* Auctioneers shall not exact a higher commission from orphans' estates than 5 Rix-dollars per 100; out of all commissions they shall pay 20 per cent. for the benefit of the Government Treasury.

193.* [No person shall sell strong drink in the towns or villages without a license.]

[1] The absence of some such law during the Dutch administration at the Cape and for several years of British rule had been felt as a serious grievance. Here is a definite break with the very old practice of farming out privileges to a very few people. The whole of this Grondwet is extremely interesting when it is regarded in the light of the earlier history of the Cape. It discarded, of course, all things disliked in the old Colony, and set up things desired but unattainable there.

194. Alle plaatsen en gronden der ingezetenen worden door de Regering der Republiek als vaste eigendommen gewaarborgd, met het regt aan het Gouvernement gelaten om een algemeenen weg tot gebruik der ingezetenen, over zulke plaatsen te bepalen, wanneer het vereischt wordt. *Jaarlijks zal door iederen eigenaar van elke plaats, tot onderhoud van het Gouvernement, ter bescherming der eigendommen, eene belasting betaald worden van niet minder dan Rds.* 6 5 2, *en niet hooger dan Rds.* 40. *De opbrengst zal door personen, daartoe geauthoriseerd, door taxatie worden bepaald.*[1]

195.* [Applicaties voor eigendoms-plaatsen moeten binnen de 6 maanden ingediend worden.]

196.* [Wanneer de belastingen ingezameld zullen worden.]

197.* Alle personen boven den ouderdom van 21 jaren, benevens de gehuwden, die geen plaatsen bezitten of slechts eene eigendoms-plaats, volgens Art. 195, zullen jaarlijks Rds. 5 belasting betalen.

198. Al wie buiten de Republiek wonende onbewoonde gronden of plaatsen in deze Republiek bezit, zal voor iedere plaats, zoolang deze onbewoond is, jaarlijks eene dubbele belasting betalen.

199. De belasting voor ièder erf op de dorpen zal geregeld worden door den Uitvoerenden Raad, en er zullen geen watergelden van het publiek gevorderd worden.

200.* [Alle inkomende marktgelden vallen aan het Gouvernement.]

201. Alle opgemetene of geinspecteerde plaatsen zullen bij den

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194. All farms and lands of the inhabitants are guaranteed by the Government of the Republic as immovable property, but reserving to the Government the right to construct, when necessary, a public road over such farms for the use of the inhabitants. *Annually there shall be paid by every owner of a farm, in support of the Government and for the protection of such property, a tax of not less than* 6..5..2 *Rix-dollars, and not more than* 40 *Rix-dollars. The exact amounts shall be fixed by persons appointed for purposes of valuation.*[1]

195.* [Applications for free-hold farms must be sent in within 6 months.]

196.* [When the taxes shall be collected.]

197.* All persons above the age of 21 years, as well as all married person, who either possess no farm, or only one free-hold farm, according to art. 195, shall pay annually a tax of 5 Rix-dollars.

198. All who, while residing beyond the limits of the Republic, yet possess unoccupied farms in this Republic, shall annually pay double the amount of the tax on each farm, as long as such-farm remains unoccupied.

199. The tax on every erf[2] in the towns shall be regulated by the Executive Council, and no water-rates shall be demanded of the public.

200.* [All market dues shall go to the Government.]

201. All surveyed or inspected farms shall, when sold,

[1] The italicised words were omitted from the 1889 Grondwet, art. 151.

[2] A plot of ground, with or without buildings, situated in a town or village,

verkoop, binnen den tijd van zes maanden moeten getransporteerd zijn, en het heerenregt binnen den tijd van zes maanden betaald. . . .

202.* Allë vreemde inkomende handelaren, met sterke dranken zullen niet mogen verkoopen, als op de markten, bij de halfaam.

203.* Alle personen die vreemde dranken buiten de dorpen willen verkoopen, zullen daarvoor eene licentie moeten uitnemen, die Rds. 2 zal bedragen voor elke halfaam.

204.* Speculateurs in sterke dranken, zullen bij de groote maat (niet kleiner dan de halfaam) drank mogen verkoopen, en zullen voor hunne licentie betalen Rds. 80.

205. De belastingen door het volk te betalen, worden voldaan ten kantore van de Landdrosten der districten.[1]

206.* De Landdrosten zullen alle drie maanden de gelden, die zij in kas hebben, overstorten in 's lands kas, ten kantore van den President van den Uitv. Raad.

207.* De Uitv. Raad zorgt voor de geregelde drie maandelijksche uitbetaling, van alle tractementen, en voor de behoorlijke voldoening van alle uitgaven, ten behoeve van den Staat gedaan, door het afgeven van schriftelijke aanwijzingen, tot betaling van 's lands kas.

208.* Zoo lang in de Republiek nog geene landsbank is opgerigt, zal 's lands schatkist zijn, ten huize van den President van den Uitvoerenden Raad, onder toezigt van de leden van dien Raad, welke daaromtrent de meest geschikte maatregelen zullen nemen.

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have to be transferred within six months, and the heerenrecht be paid within 6 months. . . .

202.* All foreign traders coming into the Republic with strong drink shall be prohibited from selling, except on the market, by the half-aum.

203.* All persons who wish to sell foreign liquors outside the towns shall have to take out a license for the purpose, which shall amount to 2 Rix-dollars per half-aum.

204.* Speculators in strong liquors shall be allowed to sell in large quantities (not less than a half-aum), and shall pay for their license 80 Rix-dollars.

205. The taxes to be paid by the people shall be paid at the offices of the Landdrosts of the districts.[1]

206.* The Landdrosts shall, every three months, pay over the moneys which they have in their chests into the Public Treasury at the office of the President of the Executive Council.

207.* The Executive Council shall provide for the regular payment of all salaries every three months, and for the proper settlement of all expenditure incurred on behalf of the State by giving written drafts on the Treasury for payment therefrom.

208.* Whilst no Government Bank exists in the Republic, the Public Treasury shall be at the residence of the President of the Executive Council, under the supervision of the members of the Council, who shall take the most suitable measures in regard thereto.

[1] The 1889 Grondwet, art. 155, added the words : " where no other officials have been appointed by law."

209*. Geene uitgaven kunnen voor rekening van den Staat gedaan of gebragt worden, dan met goedkeuring of op last van den Uitvoerenden Raad, tenzij dat de uitgave bij de wet bepaald, of tot uitvoering van de wet benodigd zij.

210.* Bij de taxatie der belasting voor plaatsen, zullen twee personen tot dat einde in ieder district aangesteld worden, die met den Veldcornet van de wijk de plaatsen der inwoners zullen taxeren, volgens art. 194. De Taxateurs zullen op hunne eigene plaats geen stem hebben, evenmin de Veldcornet op zijn plaats; doch zal zulks aan de onpartijdige leden der commissie overgelaten worden.

211.* De Taxateurs zullen van hunne werkzaamheden schriftelijk verslag doen aan den Uitvoerenden Raad, van de namen, enz. der plaatsen, door hen getaxeerd in elk der wijken.

212.* [Taxateurs te handelen op instructie van den Uitv. Raad.]

213.* [Klagten tegen de taxatie bij den Landdrost te worden gedaan.]

214.* Geen ongeinspecteerde plaatsen zullen door de Taxateurs getaxeerd worden.

215. Alle ongeinspecteerde plaatsen die onder request staan zullen door de Taxateurs getaxeerd worden.

216. Ieder, die eigendommen bezit, en het verkiest, zal buiten de Inspecteurs ook gebruik kunnen maken van een Landmeter, tot opmeting en in kaart brengen zijner gronden.

217.* Geen Landmeter zal toegelaten worden om gronden of plaatsen

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209.* No payments can be made on account of the State otherwise than by the approval or command of the Executive Council, unless such payment is fixed by law, or required in the execution of the law.

210.* For the assessment of the tax on farms, two persons shall be appointed in each district, who, with the Field-cornet of the ward, shall assess the tax on the farms of the inhabitants, according to art. 194. The Appraisers shall have no vote with respect to their own farms, nor the Field-cornet with respect to his farm, but shall leave the decision to the disinterested members of the commission.

211.* The Appraisers shall render to the Executive Council an account in writing of the names, etc. of the farms valued by them in each ward.

212.* [Appraisers to act on instructions issued by the Executive Council.]

213.* [Complaints regarding the valuations may be made to the Landdrosts.]

214.* No uninspected farms shall be valued by the appraisers.

215. All uninspected farms for which applications have been made shall be valued by the appraisers.

216. Every person possessing property, and so desiring, shall, besides the Inspectors, also have at his disposal a Surveyor to survey and make diagrams of his lands.

217.* No Land-surveyor shall be permitted to survey lands

te meten, die niet zijne behoorlijke documenten aan den President van den Uitv. Raad zal vertoond hebben, welke, na dezelve ingezien en correct bevonden te hebben, zijne aanstelling zal bekrachtigen.

218. Geen landsambtenaar zal het regt hebben om zaken voor de geregtshoven te verdedigen, als voor zichzelven.

219.* Alle hangende zaken, die nog onbeslist gebleven zijn, zullen volgens de oude landswetten behandeld, doch door de nieuw aangestelde regters ter beslissing beoordeeld worden.

220. Alle vroegere wetten en besluiten, strijdig met den inhoud dezer wetten, worden geheel buiten werking gesteld, uitgezonderd in de gevallen vermeld in art. 219.

BIJLAGE.[1] *

221–232. [Tractementen van Volksraadsleden, van den President, den Commandant-Generaal, leden van den Uitv. Raad, Gouvernementssecretaris, Landdrosten, Leeraren,[2] Commandanten, Veldcornetten, enz.]

De Comité-Raad de Nieuwe Grond- of Landswet eenparig goedgekeurd hebbende, heeft besloten dezelve op Dingsdag, den 16 den Februarij eerstkomende, aan de alhier beroepen Volksraads-vergadering voor te leggen, ter aanneming of afkeuring van dezelve, om deze alsdan daarna aan het publiek bekend te maken, ten einde hetzelve in de gelegenheid te stellen, om indien zij eenig wettig bezwaar tegen een

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or farms, unless he shall have shown his papers of qualification to the President of the Executive Council, who, after having examined the same and found them in order, shall confirm his appointment.

218. No public official shall have the right to defend cases before the Courts of Justice, except on his own behalf.

219.* All pending cases, which are still undecided, shall be dealt with according to the old laws of the country, but shall be adjudicated upon by the newly appointed judges.

220. [Conflicting laws repealed.]

ADDENDUM.[1] *

221–232. [Salaries and allowances of members of the Volksraad, of the President, the Commandant-General, members of the Executive Council, the Government Secretary, Landdrosts, Ministers of religion,[2] Commandants, Fieldcornets, etc.]

The Committee Council, having unanimously approved the new Grondwet or constitutional law of the land, has decided to lay the same before the Volkrsaad at its meeting appointed to be held here on Tuesday the 16th February next, for its approval or rejection, and thereupon to make it known to the public in order to enable the people to make any objections

[1] The salaries and allowances of officials were changed from time to time and were placed on the annual estimates and submitted to the Volksraad. The travelling expenses of officials were fixed according to a tariff laid down by Law No. 3, 1882.

[2] A provision allowing 3000 Rds. p.a. to each minister was repealed by resolution dated 28th Sept. 1874.

of meer artikelen hebben, hunne bezwaren behoorlijk te kunnen inbrengen, volgens wet.

En zal deze wet overeenkomstig art. 10 van het besluit van den gecombineerden Krijgsraad in dato Rustenburg, 2 Februarij 1858, van heden af dadelijk als Landswet in werking treden en gebruikt worden.

Aldus gedaan door de ondergeteekende Leden van den Comitéraad, gekozen door het Publiek alhier, op den 2den Februarij 1858, volgens art. 1 van genoemd besluit.

LANDDROSTKANTOOR,
RUSTENBURG, *den 13den Februarij* 1858.

M. W. PRETORIUS, *President.*
ST. SCHOEMAN, *Commandant-Generaal.*

W. ROBINSON, *Voorzitter.*
P. J. S. ROBERTSE.
C. POTGIETER.
H. T. BUHRMAN.
S. J. KRUGER.
J. P. MAREE.
C. W. C. PISTORIUS.
C. MOLL.
C. L. CAMPHER.
J. C. STEIJN.
J. H. L. KOCK.
S. J. P. KRUGER.

De Volksraad de Grondwet in haar geheel overzien en behandeld hebbende, keurt dezelve met algemeene stemmen goed, met voorbehoud der bepaling, vervat in art. 10 van het Krijgsraadsbesluit, van 2 Februarij 1858. (Zie art. 19 der Volksraadsbesluiten, van 16 tot 19 Februarij 1859.)

J. L. JANSE V. RENSBURG.
L. S. DU PLESSIS.
R. DE PLOOIJ.
H. S. STROH.
P. W. A. SENEKAL.
P. VENTER.
J. S. POTGIETER.
J. C. VAN DER MERWE.
J. H. PRINSLOO.
W. P. GROBLER.
J. F. VAN STADE.
J. H. ROBERTSE.

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according to law, if they have any such lawful objections against any of the articles.

And this law, in accordance with art. 10 of the resolution of the combined Council of War, dated at Rustenburg, the 2nd February 1858, shall take effect from this day and be observed as the law of the country.

Thus done by the undersigned members of the Committee Council chosen by the people of this place on the 2nd February 1858, according to art. 1 of the said resolution.

LANDDROST'S OFFICE,
RUSTENBURG, *13th Feb.* 1858.

M. W. PRETORIUS, *President.*
ST. SCHOEMAN, *Commandant-General.*
[and 12 others.]

The Volksraad having revised and considered the whole of the Grondwet, unanimously approve the same, saving the provision contained in art. 10 of the War Council's resolution, dated the 2nd Feb. 1858. (See art. 19 of the Volksraad's resolutions, dated 16th to the 19th Feb. 1859.)

[26 signatures.]

G. F. PISTORIUS.
JAC. RADEMEIJER.
M. J. REDELINGHUIS.
P. C. MINNAAR.
G. B. VAN ROOIJEN.
D. A. BOTHA.
J. M. STRUBEN.
C. H. ELOFF.
J. P. PRINSLOO.
H. P. MALAN.
T. J. KRUGER.
C. GROBLER.
J. J. BOOIJSE.
W. JANSE V. RENSBURG.

Locale Wetten der Z.A. Rep. I. 35.

No. 183. INSTRUCTIE VOOR DE VELDCORNETTEN.[1]

[Vervangende Instructies uitgevaardigd op 9 April 1849.]

(*Goedgekeurd door V.R.B., 17 Sept.* 1858, *art.* 19.)

ART. 1. De Veldcornetten en Adsistent Veldcornetten worden gekozen bij meerderheid van stemmen door de blanke inwoners hunner afdeelingen.

2. Zij worden aangesteld voor den tijd van vijf of meer jaren,[2] en zijn bij aftreding herkiesbaar.

3. De Veldcornetten en Adsistent Veldcornetten zijn gehouden naauwkeurig te letten op de rust en goede orde in de respective afdeelingen, en zullen niet gedoogen dat dezelve door iemand der bewoners gestoord worde.

4. [De Veldcornetten zijn verplicht bekendmaking te doen van wetten en Gouvernementskennisgevingen, en bevorderen de nakoming ervan.]

5. [Zij zijn onderworpen aan de bevelen der Landdrosten.]

6. [Zij moeten de bevelen der geregtshoven gehoorzamen.]

No. 183. INSTRUCTIONS TO THE FIELD-CORNETS.[1]

[Superseding Instructions issued on 9th April 1849.]

(*Approved by resolution of the Volksraad,* 17th *Sept.* 1858, *art.* 19.)

ART. 1. The Field-cornets and Assistant Field-cornets shall be chosen by a majority of the votes of the white inhabitants of their divisions.

2. They shall be appointed for the period of five or more years,[2] and on leaving their office they shall be eligible for re-election.

3. The Field-cornets and Assistant Field-cornets are obliged vigilantly to watch over the maintenance of peace and good order in their respective divisions, and shall not allow the same to be disturbed by any of the inhabitants.

4. [It shall be their duty to make public all laws and Government notices, and to assist in the observance of the same.]

5. [They shall be subject to the commands of the Landdrosts.]

6. [They shall obey the orders of the courts of justice.]

[1] Modified by Law No. 2, 1885, and several other laws which delegated various functions to the Field-cornets.

[2] Law No. 2, 1885, limited the period to three years.

7. [Zij moeten lijsten houden van alle personen die hunne wijken binnenkomen. Burgers moeten aan Veldcornetten kennis geven van hun aankomst of verhuizing op straf van boete.]

8. [Veldcornetten moeten lijsten houden van dienstpligtigen in hunne wijken. De manschappen uit elk Veldcornetschap worden in 3 klassen verdeeld. Ongehuwden worden voor gehuwden gecommandeerd. Personen boven 60 zijn vrij van gewone krijgsdienst.]

9. [Verslag alle 2 maanden te worden gedaan door de Veldcornetten aan hun Landdrost.]

10. Bij verzuim van aan die bepaling te voldoen, worden zij beboet met Rds. 10.

11. [Lijkschouwing door de Veldcornetten te worden gehouden.]

12. [Veldcornet rapporteert het plegen van misdaad aan den Staatsprocureur of aan den Landdrost.]

13. [Ingeval van moord of andere misdaden doet de Veldcornet plaatselijk onderzoek en rapporteert aan den Staatsprocureur of Landdrost.]

14. [Pligten der Veldcornetten in 't schouwen van lijken.]

15. [Veldcornet kan een gewonden persoon onderzoeken. Waar mogelijk moet de Veldcornet zich voorzien van geneeskundige hulp. Geneeskundige geregtigd op belooning en mag zijne diensten niet weigeren.]

16. [Pligten van den Veldcornet in geval van huisbraak, enz.]

17. [Veldcornet verpligt aanteekening van alle schouwingen te

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7. [They shall keep lists of all persons who enter their wards. All burghers shall notify the Field-cornets of their arrival or removal under penalty of a fine.]

8. [Field-cornets shall keep lists of persons liable to service in their wards. The men of each field-cornetcy are divided into 3 classes. Unmarried men shall be called up before married men. Persons above 60 years of age shall be exempt from ordinary military service.]

9. [Field-cornets shall send reports to their Landdrosts every two months.]

10. Failing to comply with this provision they shall be fined 10 Rix-dollars.

11. [They shall inspect corpses of those who did not die a natural death.]

12. [In case of crime the Field-cornet shall report the circumstances to the State Attorney or to the Landdrost.]

13. [In case of murder or other crimes the Field-cornet shall make an inspection on the spot, and shall send his report to the State Attorney or to the Landdrost.]

14. [Duties of Field-cornets in examining corpses.]

15. [A Field-cornet may examine a wounded person. Wherever possible he shall procure the assistance of a doctor. Such doctor shall be entitled to remuneration and may not refuse his services.]

16. [Duties of a Field-cornet in case of burglary, etc.]

17. [It shall be his duty to make notes of all inspections, and

houden en onderteekend naar den Staatsprocureur te zenden. Zoodanige aanteekening in regten te worden gebruikt.]

18. [Veldcornet mag niemand zonder behoorlijk bevelschrift apprehenderen, dan alleen op heeterdaad, of waar een misdadiger zich bij hem aangeeft. Gevangenen moeten naar de drostdij gezonden worden.]

19.[1] Van deze bepalingen zijn echter uitgezonderd: vagebonden of rondzwervers, die zich zonder verlof in zijn wijk bevinden, en die, noch bij hem, noch bij de ingezetenen bekend zijn,—gelijk mede alle kleurlingen, die onder verdenking liggen van eenige misdaad te hebben begaan. De Veldcornet is verpligt en gehouden de zoodanigen in verzekering te nemen, en naar de drostdij van zijn district op te zenden. De nalatige Veldcornet zal gestraft worden met eene boete van 10 tot 50 Rds.

20. [Bij het verzenden van gevangenen is de Veldcornet gehouden die van verder af woonende Veldcornetten over te nemen.]

21. [Van alle buitengewone gebeurtenissen geeft de Veldcornet kennis aan Staatsprocureur of Landdrost. Ingeval van dringende noodzakelijkheid moet hij zonder op orders te wachten stappen nemen om kwaad tegen te gaan.]

22. [Hij moet het postwezen in zijn wijk bevorderen.]

23. [Brieven, enz. aan ambtenaren geadresseerd moet hij met spoed verzenden.]

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to sign and despatch the same to the State Attorney. Such record may be used in court.]

18. [The Field-cornet may not arrest any person without a proper warrant, except when such person is caught in the act, or when a criminal shall give himself up to the Field-cornet. All prisoners shall be sent to the drostdy.]

19.[1] From the provisions of the last preceding section are, however, excepted: vagabonds or vagrants who enter his ward without permission, and who are unknown to him and the inhabitants,—as also all coloured persons who are suspected of having committed a crime. The Field-cornet is bound to take such persons into custody, and to send them to the drostdy of his district. Any Field-cornet who shall be guilty of negligence in this respect shall be punished with a fine of 10 to 50 Rix-dollars.

20. [For sending prisoners to the drostdy the Field-cornet shall take over and send on such prisoners as shall have been sent to him by another Field-cornet living farther off.]

21. [Of all unusual occurrences the Field-cornet shall give notice to the State Attorney or the Landdrost. In cases of great urgency he shall take measures to oppose any evil without awaiting any orders.]

22. [He shall promote the postal service in his ward.]

23. [Letters, etc. addressed to officials he shall transmit with speed.]

[1] Repealed by Procl. No. 34 of 1901.

24. [Veldcornet belast met het toezigt der publieke wegen.]
25. [Veldcornetten gehouden onderling te corresponderen en mee te werken tot bevordering der Republiek.]
26. [Veldcornetten gelast private geschillen uit den weg te ruimen en civiele processen te voorkomen.]
27. [Zij moeten stipt onpartijdig blijven.]
28. [Wie niet tot de krijgsdienst opgeroepen mag worden].
29. [De Veldcornet beslist wie verontschuldigd mag worden, maar hij zal verantwoording schuldig zijn aan zijn Commandant.]
30. [Vrijgestelde personen tusschen 16 en 60 jaar moeten bijdragen doen.]
31. [Bijdragen worden door den Veldcornet gevorderd.]
32. [Boete voor het niet nakomen van art. 117 der Grondwet.]
33. [Veldcornet regelt gevallen waar personen onvermogend zijn.]
34. [Boete voor Veldcornet die zonder goede redenen bedankt of weigert zijn ambt te aanvaarden.]
35. [Verdeeling van buitgemaakte goederen.]
36. [Veldcornetten, enz. verpligt zoo spoedig mogelijk ambtsbrieven te beantwoorden.]
37. [Ieder kleurling, met of zonder vee rondloopende moet een behoorlijke pas van den Veldcornet hebben.]

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24. [The supervision of the public roads is entrusted to him.]

25. [Field-cornets are obliged to correspond with one another, and to co-operate in promoting the welfare of the Republic.]

26. [They are instructed to settle private disputes and thus to avoid civil cases.]

27. [They shall observe strict impartiality.]

28. [List of those not liable to be called up for military service.]

29. [The Field-cornet shall decide on claims for exemption, but he shall be responsible to his Commandant.]

30. [Persons between 16 and 60 years of age who are exempted shall make contributions.]

31. [These contributions shall be demanded by the Field-cornet.]

32. [Fine prescribed for non-compliance with the provisions of art. 117 of the Grondwet.]

33. [The Field-cornet shall settle any case of inability to make the contributions.]

34. [Fine prescribed in case a Field-cornet resigns or refuses to enter on his duties without sufficient cause.]

35. [Division of spoil captured in war.]

36. [Field-cornets and others are obliged to reply to official letters as soon as possible.]

37. [Every coloured person moving about with or without cattle must have a pass signed by his Field-cornet.]

38. [Naturellenkapiteins mogen geen zendeling toelaten zonder verlof van de Veldcornet na raadpleging met den Uitv. Raad.]

39. [Aanzoeken om kleurlingen in dienst te krijgen bij de Veldcornetten te worden gedaan.]

40. [Het onderhandelen over dienstvolk zonder voorkennis van den Veldcornet is belet op straffe van boete.]

41. [Geen sterke dranken aan kleurlingen te worden verkocht zonder order hunner meesters.]

42. [Gekleurde dienstboden moeten goed behandeld worden. Zij kunnen zich over mishandeling in de eerste plaats bij een Veldcornet beklagen.]

43. [Boete voor mishandeling van dienstboden.]

44. [Straf op kleurlingen die ongegronde klagten maken.]

45. [Door de Veldcornetten zal eene dienst aangewezen worden voor iedere kleurling die niet aan een of ander kapitein ondergeschikt is.]

46. [Geen pas te worden verleend aan kleurlingen om buiten het land te gaan.]

47. [Gronden aan kapiteins in voortdurend gebruik afgestaan.]

48. [Ongestoord bezit van gronden en bescherming aan Naturellenkapiteins gewaarborgd.[1]]

49. De kapiteins en onderhoorigen mogen geen bondgenootschap

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38. [Native captains shall not allow missionaries to come among them without the permission of the Field-cornet, who shall first have consulted the Executive Council.]

39. [Applications for the hiring of coloured servants shall be made to the Field-cornets.]

40. [Every person is prohibited on penalty of a fine to negotiate with a view to obtaining coloured servants otherwise than with the knowledge of the Field-cornet.]

41. [No strong liquor to be sold to coloured persons except on an order from their masters.]

42. [Coloured servants must be well treated. In case of ill-treatment they may make complaint to the Field-cornet in the first instance.]

43. [Fine prescribed for the ill-treatment of servants.]

44. [Punishment of coloured persons who make groundless complaints.]

45. [Every coloured person who is not subordinate to any of the native captains shall be liable to be placed in service by the Field-cornets.]

46. [No pass to go outside the territory of the Republic shall be granted to coloured persons.]

47. [Lands assigned to captains shall be for their permanent use.]

48. [Undisturbed possession of such lands and protection are guaranteed to native captains.[1]]

49. The captains and those under them shall not enter into

[1] Cf. The Convention of London, 1884, art. 19, *infra*.

met andere volken aangaan, en zijn onderworpen aan de wetten van dit land.

50. [Gronden aan Kafferstammen toegestaan zullen aangewezen worden. De Veldcornetten zullen geschikte gronden aanbevelen.]

51. [Vuurwapenen, ammunitie, enz. mogen niet aan Naturellenstammen worden gegeven of verhandeld.]

52. Geen plaats zal grooter geïnspecteerd worden dan 3000 morgen gronds.

53. [Veldcornetten gelast geen inkomende personen in onbewoonde streken te laten wonen zonder verlof van het Gouvernement.]

54. De Veldcornetten zullen stiptelijk waken voor de wet waarbij hij die zich schuldig maakt aan het vervoeren van kleurlingen, of hunne kinderen over de grenzen der Republiek, of die gemelde jonge kleurlingen verhandelen of verkoopen, beide, koopers en verkoopers, zullen gestraft worden met ontneming der kleurlingen en eene boete van £100 tot £500, of bij onvermogen met gevangenisstraf.

55. [Strafbepaling voor het niet voldoen aan gedane oproeping of aan wettige bevelen.]

56. [Vorm van huurcontract met kleurlingen voor een Veldcornet te worden aangegaan.]

57. [De eigenaar van eene plaats waar er eene Kafferkraal is mag 4

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any treaties with other nations, and are subject to the laws of this country.

50. [Lands assigned to Kaffir tribes shall be pointed out, and it shall be the duty of Field-cornets to recommend suitable situations.]

51. [Fire-arms, ammunition, etc. shall not be granted or given in exchange to native tribes.]

52. No farm shall be inspected of a larger extent than 3000 morgen.

53. [Field-cornets are instructed not to allow persons entering the territory of the Republic to reside in unoccupied tracts without the permission of the Government.]

54. The Field-cornets shall take especial care that the law is observed whereby any person guilty of carrying off coloured persons or their children across the boundaries of the Republic, or who shall dispose of or sell such young coloured persons, whether he be seller or purchaser, shall be punished by being dispossessed of such coloured persons and being condemned to pay a fine of from £100 to £500, and, in case of inability to pay, by imprisonment.

55. [Punishment prescribed for non-compliance with a call to military service or other lawful command.]

56. [Form of contract of hire to be entered into with coloured persons in the presence of a Field-cornet.]

57. [The owner of a farm on which there is a Kaffir kraal

huishoudende kleurlingen in dienst houden, doch die moeten beloond worden.[1]]

58. [Veldcornetten zijn gehouden alle kafferkralen in hun wijk op te nemen.]

59. [Bij sterfgevallen moet de Veldcornet onderzoeken of een testament is nagelaten.]

60. [Veldcornet binnen zijn wijk te handelen, waar de inwoners hem moeten gehoorzamen.]

61. [Veldcornet stiptelijk de wetten te observeren.]

62. [Alle officieren moeten beëedigd worden.]

63. [Vorm van den eed.]

Locale Wetten der Z.A. Rep. I. 90.

No. 184. BIJLAGEN TOT DE GRONDWET. [19 Sept. 1859.]

No. 1.

NADEMAAL het gebleken is dat, ofschoon in art. 31 der Drie en Dertig Artikelen, in de Instructie van de Weesmeesters en in verschillende andere wetten en raadsbesluiten naar de Hollandsche wetten verwezen wordt, en nogtans gedurig onzekerheid bestaat welke Hollandsche wetten worden bedoeld: en nademaal deze onzekerheid tot groot nadeel, voor de burgers en moeite en twijfel voor de Regters verstrekt, zoo heeft de Volksraad der Zuid Afrikaansche Republiek, op voordragt van den Uitvoerenden Raad, het noodig geacht de vol-

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may have in his service four coloured persons who are heads of families, but they shall be rewarded for their services.[1]]

58. [Field-cornets are obliged to take a census of all Kaffir kraals in their wards.]

59. [Whenever a death takes place the Field-cornet shall make enquiry whether a will has been left.]

60. [Each Field-cornet shall act within the limits of his ward, and must be obeyed by the inhabitants thereof.]

61. [The Field-cornet shall carefully observe the laws.]

62. [All officers shall take an oath.]

63. [Form of oath.]

No. 184. ADDENDA TO THE GRONDWET.

No. 1. [19 Sept. 1859.]

WHEREAS it has appeared that, although in art. 31 of the Thirty-three Articles, in the Instructions to the Orphan-masters and in various other laws and resolutions of the Raad, reference is made to the Dutch laws, uncertainty still exists as to which Dutch laws are intended: and whereas this uncertainty causes much injury to the burghers and trouble and doubt to the judges; therefore the Volksraad of the South African Republic, acting on representations made by the Executive Council, have deemed it necessary to make

[1] This art. was repealed by Law No. 4, 1885.

gende bepalingen te maken, die bij deze worden vastgesteld, tot zoolang er nadere voorzieningen in zijn gemaakt:

ART. 1. Het Wetboek van Van der Linden blijft (voor zoover zulks niet strijdt met den Grondwet, andere wetten of Volksraadsbesluiten), het wetboek in dezen Staat.

2. Wanneer in genoemd boek over eenige zaak niet genoegzaam duidelijk of in het geheel niet wordt gehandeld, zal het Wetboek van Simon van Leeuwen en de Inleiding van Hugo de Groot verbindend zijn.

3. Bij het gebruik dezer drie wetboeken zal altijd gehandeld worden op de wijze bij art. 31 der Drie en Dertig Artikelen bepaald.

4. Deze wet zal van kragt zijn na drie maanden aan het publiek bekend te zijn gemaakt.

Goedgekeurd in de Volksraadszitting van 19 September 1859, art. 52, te Pretoria gehouden.

No. 185. No. 2. [19 Sept. 1859.]

NADEMAAL het gebleken is dat er voortdurend onzekerheid bestaat van welke zaken de Geregtshoven kennis mogen nemen en uitspraak doen, en art. 143, in verband met art. 219 der Grondwet, niet altijd op dezelfde wijze wordt uitgelegd, waardoor, tot groot nadeel van den Staat, het eigendom van verschillende burgers onzeker is, zoo heeft

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the following regulations, which are hereby affirmed, till such time as further provision shall be made:

ART. 1. The Law-book of Van der Linden (for as far as it is not in conflict with the Grondwet or other laws or resolutions of the Volksraad) continues to be the law-book of this State.

2. When in the above-mentioned book any matter is not treated with sufficient clearness, or is not dealt with at all, then the Law-book of Simon van Leeuwen and the Introduction of Hugo de Groot are binding.

3. In using these three law-books the procedure shall always be according to the manner laid down in art. 31 of the Thirty-three Articles.

4. This law shall be of force after it has been made known to the public for three months.

Approved of in a session of the Volksraad held at Pretoria on the 19th September 1859, art. 52.

No. 185. No. 2. [19 Sept. 1859.]

WHEREAS it has become evident that constant uncertainty exists as to which cases the courts of law may take cognizance of and pass judgment in, and whereas art. 143 in conjunction with art. 219 of the Grondwet is not always interpreted in the same manner: whereby to the great injury of the State the possessions of several burghers are not assured; therefore, in response to representations made by the Executive Council,

de Volksraad der Zuid Afrikaansche Republiek, op voordragt van den Uitvoerenden Raad, het noodig geacht de volgende bepalingen te maken, die bij deze worden vastgesteld:

ART. 1. Hangende zaken, bedoeld in art. 219 der Grondwet, zijn de zoodanige waaromtrent geen Volksraadsbesluit is genomen.

2. Ieder Hof zal alle Volksraadsbesluiten als Wet eerbiedigen, geene aanmerking of beoordeeling er over kunnen maken, en wat door den Volksraad is beslist of goedgekeurd zal niet meer aan de kennisneming van eenig Geregtshof mogen onderworpen worden.

3. Wanneer over dezelfde zaak verschillende Volksraadsbesluiten zijn genomen, zal het laatste besluit als Wet door ieder Geregtshof moeten geëerbiedigd worden.

4. Deze wet is onmiddelijk van kracht.

Aangenomen en goedgekeurd in de Volksraadszitting gehouden te Pretoria, van 19 September 1859, art. 53.

Locale Wetten der Z.A. Rep. I. 115.

No. 186. VOLKSRAADSBESLUIT, SEPTEMBER 1858, ART. 23*c*.[1]

ART. 140. De gezworenen zullen, voordat zij zitting in het Hooge Geregtshof, bedoeld bij art. 143, nemen, den volgenden eed in handen van de Landdrosten afleggen:

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the Volksraad of the South African Republic have deemed it necessary to make the following regulations, which they hereby affirm:

ART. 1. Pending cases, as mentioned in art. 219 of the Grondwet, are those with regard to which no resolution of the Volksraad has been passed.

2. Every Court shall observe all resolutions of the Volksraad as law, shall be entitled to make no remark and pass no judgment about them, and what has been decided or approved of by the Volksraad may not again be subjected to the cognizance of any court of law.

3. When various resolutions of the Volksraad have been taken about the same matter, every court of law shall be bound to respect as law the resolution last taken.

4. This law takes effect immediately.

Adopted and sanctioned in a session of the Volksraad held at Pretoria on the 19th September 1859, art. 53.

No. 186. RESOLUTION OF THE VOLKSRAAD, SEPTEMBER 1858, ART. 23*c*.[1]

ART. 140. The jurors shall, before taking session in the High Court of Justice mentioned in art. 143, take the following oath before the Landdrosts:

[1] Repealed by Procl. No. 34 of 1901.

[Eed zoo als bij art. 140 der Grondwet.]

In zulke zaken, waar een Hof van Landdrosten en gezworenen vereischt wordt, zal de Landdrost van dat district in zoodanige zaken, die staan voor het Hoog Geregtshof gebragt te worden, vier-en-twintig stemgeregtigde burgers van dat district dagvaarden om als zoodanig voor het Hof te verschijnen. Van dit getal zal door het lot beslist worden, welke 12 burgers als eene jurie zullen moeten dienen.

Zoowel aan het Hof als aan elk der partijen afzonderlijk, zal het geoorloofd zijn bij het oproepen der namen, *een, twee* of *drie* personen van de hand te wijzen, zonder verpligt te wezen eenige redenen voor dea fwijzing op te geven ; en zoodra de jurie van 12 gezworenen voltallig is, zal het Hof, na behoorlijk de jurie ingezworen te hebben, met deszelfs werkzaamheden een aanvang nemen.

Locale Wetten der Z.A. Rep. I. 104.

No. 187. VOLKSRAADSBESLUIT, SEPTEMBER 1858, ART. *23d.*[1]

ART. 144. Bij elke gelegenheid wanneer er zaken voorkomen die een Hoog Geregtshof vereischen, zal de Landdrost gehouden zijn van zulk een vereischte aan den Uitvoerenden Raad kennis te geven, welke Raad den dag der zitting zal moeten bepalen en de Landdrosten aanschrijven, dat vereischte Geregtshof te bestieren.

Locale Wetten der Z.A. Rep. I. 105.

[Oath as in art. 140 of the Grondwet.]

In cases in which a Court of Landdrosts and jurors is demanded, the Landdrost of that district shall, in such cases as are about to come up before the High Court, summon from the district 24 burghers possessing the franchise, who shall appear as such before the Court. Of this number it shall be decided by lot which 12 burghers will have to serve as a jury.

It shall be allowed to the Court as well as to each of the parties to set aside *one, two* or *three* of the persons as the names are called out without being bound to assign any reason for the objection ; and as soon as the number of 12 jurors shall be complete, the Court shall, after having properly sworn the jury, commence its labours.

No. 187. RESOLUTION OF THE VOLKSRAAD, SEPTEMBER 1858, ART. *23d.*[1]

ART. 144. On each occasion when cases come up which require a High Court of Justice, the Landdrost shall be held to give notice of such requirement to the Executive Council, which Council shall fix the date of the session and point out the Landdrosts who shall supervise the required Court.

[1] Repealed by Procl. No. 34 of 1901.

No. 188. UNION OF THE SOUTH AFRICAN REPUBLIC AND THE REPUBLIC OF LIJDENBURG.

[In 1856 disputes between individual leaders and separate localities transferred themselves to the field of the Church. Most of the people to the north of the Vaal were in favour of a Transvaal Church independent of the Cape Synod, but Lijdenburg in the eastern Transvaal differed from the rest of the country, at the same time repudiating the political leadership of men desired by the other inhabitants. This was largely due to the action of the court of justice, which had in 1854 declared eight Volksraad members of Lijdenburg guilty of a breach of the Constitution. In the same year a certain J. A. Smellenkamp had been banished from the country for slanderous language said to have been issued against a minister to whom most of the inhabitants adhered, but to whom the people of Lijdenburg objected.

In May 1856 there was an irregular session of the Volksraad at Pretoria, but no representatives from Lijdenburg attended. In October of the same year the Volksraad met in session at Lijdenburg, but on this occasion representatives of the other districts kept aloof. In order to make up a quorum the members present added seven men to their number. On the 16th December this body set up the Republic of Lijdenburg with its own Volksraad, its own Executive Council, and its own Grondwet. While this was going on, the Volksraad of the South African Republic held its meetings at Pretoria, and the Grondwet given above, which had been drawn up and approved of by the bulk of the people a few years earlier, was finally adopted in 1858. After lengthy negotiations between the two Republics, a compromise was agreed upon as is indicated by this document. The united Volksraad of the whole Transvaal met at Pretoria on April 4, 1860. Cf. *Locale Wetten der Z.A. Rep.* I. 32.]

BIJLAGE

Tot de Besluiten van den Hoog-Ed. Achtb. Volksraad, genomen te Pretoria van den 3 den tot 10 den April 1860.

[24 Nov. 1859.]

Overeenkomst tusschen het Gouvernement van de Zuid Afrikaansche Republiek en de Republiek Lijdenburg, tot vaststelling der vereeniging van beide Staten, aangevangen 26 Februarij, en geeindigd te Rustenburg, 23 November 1859.

ART. 1. Betreffende de kwestie der limietscheiding, is besloten dat de scheidslijn der Z.A. Republiek en der Republiek Lijdenburg zal zijn de Olifantsrivier, op tot waar de Rhenosterpoortsrivier inloopt, en de

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ADDENDUM

To the Resolutions of the Volksraad passed at Pretoria on the 3rd to the 10th April 1860. [24 Nov. 1859.]

Agreement between the Government of the South African Republic and the Republic of Lijdenburg for effecting the union of the two States, begun on 26th February and completed at Rustenburg on 23rd November 1859.

ART. 1. With regard to the matter of settling the boundaries it is resolved that the boundary of the South African Republic and the Republic of Lijdenburg shall be the Olifants River

Rhenosterrivier op derzelver oorsprong, en van daar met eene regte lijn tot naar den kop aan Vaalrivier, waar de bovenste wagenweg van Potchefstroom doorgaat naar Buffelrivier.

De vóór datum dezes (28 Februarij 1859) ter weerszijden van die lijn reeds genomen en aangeteekende plaatsen, zullen het eigendom der eigenaren blijven, en dat wel volgens den datum van derzelver aanteekening; verder gaat de lijn van dien kop aan Vaalrivier langs de spruit van Vaalrivier (Kopokrivier) op tot waar de groote algemeene wagendrift van den weg van Lijdenburg naar Natal door die rivier gaat; en van daar met een regte lijn naar den ronden kop welke tusschen de spruiten van de Pongolorivier ligt aan de lijn van Utrecht, benoemd in de besluiten genomen te Utrecht in dato 13 Augustus 1859. Deze lijn is benoemd en vastgesteld op 20 September 1859, te Pretoria. Na de vaststelling dezer vereeniging door den vereenigden Volksraad, zal de bovengemelde lijn districtlijn worden.

2. [Betreffende zekere kwestien in het district Utrecht.]

3. Aangaande de zaak in kwestie wegens het besluit en vonnis der commissie, Volksraadsleden van Lijdenburg in November 1854, vermeld en voorkomende in de Volksraadsbesluiten te Pienaarsrivier, in dato September 1855, is besloten dat de geheele zaak als niet voorgevallen te zijn wordt beschouwd, met dien verstande dat al de daarin betrokken personen in hun volle eer en karakter hersteld en daarin gehandhaafd worden, en dat niemand omtrent de zaak in kwestie aan eenig ander, wie ook, verwijtingen, beleedigingen of vervolgingen,

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up to where the Rhenosterpoort River joins it, and the Rhenoster River up to its source, and from there in a straight line to the hill on the Vaal River where the upper wagon-road from Potchefstroom passes through to the Buffel River.

The farms on both sides of that line taken and registered before the date hereof (28 Feb. 1859) shall remain the property of the owners as from the date of registration. The line proceeds further from that hill on the Vaal River along the tributary of the Vaal River (Kopok River) up to where the large common wagon-drift on the road from Lijdenburg to Natal passes through that river; from there in a straight line to the round hill which lies between the streams of the Pongolo River on the Utrecht line established in the resolutions taken at Utrecht on 13th August 1859. This line has been fixed at Pretoria on 20th September 1859. After the establishment of union by the combined Volksraad the line above mentioned shall become a district boundary.

2. [Regarding certain matters in the district of Utrecht.]

3. With regard to the matter in dispute arising from the resolution and judgment of the committee of Volksraad members of Lijdenburg in November 1854, which is to be found mentioned in the resolutions of the Volksraad at Pienaars River, dated September 1855,—it is decided that the whole matter be regarded as having never occurred, on the understanding that the honour and character of all the persons therein involved be fully reinstated and upheld, and that no one shall in any way reproach, insult or persecute any other

van welken aard ook, zal mogen aandoen, op boete naar den aard der zaak.

4. Wordt besloten dat Lijdenburg, zoo ver zijn tegenwoordig grondgebied strekt, zijn eigen vrij plaatselijk bestuur en wetten zal behouden; en dat hoewel vereenigd onder eene algemeene wet en bestuur ten allen tijde het regt blijft behouden, om zoover het plaatselijke wetten aangaat tot regeling der zaken en belangen van de districten in dat grondgebied en deszelfs inwoners een Districtsraad te hebben, die de tot dat einde benodigde wetten en regulatien zal maken en uitvaardigen; al zulke wetten zullen echter ter goedkeuring van den Uitv. Raad en Volksraad gelaten worden, voor dat zij als blijvende Districtswetten erkend zullen worden.

Indien de Staatspresident Lijdenburgs grondgebied komt bezoeken, zal hij het regt en de kracht hebben dien Districtsraad tot het houden van vergaderingen op te roepen en hun alsdan verslag van hunne gedane verrigtingen te laten doen.

In de algemeene lands zaken zullen Lijdenburgs districten en inwoners echter onder de algemeene landswet staan en even als alle inwoners in alle regten deelen en den algemeene staat moeten dienen en in standhouden volgens de algemeene landswetten.

Verder kan de President dit verkiezende gedurende zijn verblijf in Lijdenburgs grondgebied dien districtsraad oproepen om verder in zijne tegenwoordig en met zijne medewerking alle plaatselijke belangen

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person whatever about the matter in question, on pain of being liable to a fine according to the nature of the case.

4. It is resolved that Lijdenburg, as far as its present territory extends, shall retain its own free local management and laws; and that although united [with the S.A. Republic] under common laws and government it shall at all times retain the right to have a District Council with local laws for managing the affairs and interests of the districts in that territory and the inhabitants thereof. The Council shall, with that object in view, frame and publish the necessary laws and regulations; but all such laws shall be subject to the approval of the Executive Council and the Volksraad, before they shall be acknowledged as permanent district laws.

If the President of the State pays a visit to the Lijdenburg territory he shall be authorised to summon the District Council to a meeting and cause it to report on its activities.

In the common affairs of the country, however, the districts and inhabitants of Lijdenburg shall be subject to the general laws of the country, they shall enjoy the same rights as all other inhabitants, and they shall be bound to serve and maintain the common State in accordance with the common laws of the country.

Further, the President may, if he thinks fit, during his stay in Lijdenburg territory, summon the District Council further to regulate in his presence and with his assistance all

van die districten te regelen, alsdan zal in dien distriktsraad de President als Voorzitter van dien raad plaats kunnen nemen.

Verder zal vóór de zitting van den vereenigden Volksraad een register met deszelfs inlichtingen van beide zijden ingediend en vastgesteld worden door den eersten vereenigden Volksraad, inhoudende en vaststellende wat verstaan en begrepen onder de woorden plaatselijk bestuur en wetten, opdat de districtsraad volgens dat register wete welke zaken door hun behandeld mogen worden.

5. Wordt besloten dat alle wetten en besluiten van af 1 Augustus 1845, tot den datum der vaststelling van deze vereeniging door den Volksraad en het verder bestuur van het toenmalige en tegenwoordig nog bestaande bestuur van Ohrigstad en Lijdenburg, betreffende het uitgeven, koopen en verkoopen van gronden en alles wat daarop betrekking heeft, in deszelfs volle kracht en waarde zullen blijven en daarin geen verandering gemaakt zal mogen worden ten nadeele der tegenwoordige ingezetenen of regthebbenden; dat echter wegens het uitgeven van de gronden en alles wat daarop betrekking heeft behoorende aan Lijdenburgs Staat van af vaststelling dezen ten behoeve van later inkomende inwoners zoodanige veranderingen en verbeteringen kunnen en mogen gemaakt worden, als tijd en omstandigheden noodig zullen maken, echter zullen zulke veranderingen of verbeteringen niet gedaan en vastgesteld mogen worden zonder de medewerking en goedkeuring van den bestaanden districtsraad vermeld in art. 4, en verder met goedkeuring der ingezetenen van Lijdenburgs tegen-

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local interests of those districts. The President may on such occasion act as chairman of the Council.

Further, before the session of the combined Volksraad, a register containing items of information from both sides shall be handed in, and shall be passed by the first combined Volksraad, which register shall set forth and affirm what is to be taken and understood by the words "local management" and "local laws," in order that the District Council may learn from that register which matters may be dealt with by them.

5. It is decided that all laws and resolutions, from the 1st August 1845 till the date of the establishment of this union, passed by the Volksraad and the subsequent management of the directorates of that time and of the present time of Ohrigstad and Lijdenburg, concerning the granting, buying and selling of lands and everything that stands in relation thereto, shall retain their full force and validity and that no alteration shall be made therein to the injury of the present inhabitants and lawful owners; that, however, with regard to the granting of land and everything relating thereto, as far as the land belongs to the State of Lijdenburg, such alterations and improvements as times and circumstances shall show to be necessary, may and can be made in future for the benefit of later immigrants; such alterations and improvements, however, shall not be made or affirmed without the assistance and approval of the existing District Council mentioned in art. 4, or without the approval of the inhabitants of the present territory of Lijdenburg, in accordance with the

woordig grondgebied volgens het regt van goed of afkeuring hetwelk zij volgens de algemeene wetten hebben.

6. Wordt besloten dat de openliggende gronden van Lijdenburg voortdurend stuksgewijze ter algemeene bewoning zullen opengezet worden, dat zulks op voordragt van de in art. 4 benoemde districtsraad of den vereenigden Uitv. Raad gedaan zal worden, in elk geval echter bij besluit van den Uitv. Raad; en besluit de districtsraad het regt om deszelfs inlichtingen of aanmerkingen daaromtrent in te zenden; indien er reeds plaatsen zijn in zulk eene streek gronds voor ingezetenen van Lijdenburg aangeteekend of waarover door het Gouvernement reeds beschikt is, zal zulks staande blijven en zullen zulke streken grond alsdan openstaan voor aanteekening van plaatsen voor alle personen in en buiten Lijdenburgsgrond woonachtig, voor landsregten welke zij nog hebben voor plaatsen te nemen. Deze aanteekeningen geschieden ten kantore van den Landdrost van het district waar die grond onder behoort. En zal alsdan bij de openzetting bepaald worden, binnen welken tijd zulke plaatsen bewoond moeten worden, of de eigenaren in Lijdenburgs grondegebied woonachtig zijn. En daar niet aan voldaan wordende zonder buitengewoon gegeven uitstel door den Uitvoerenden Raad, zullen zulke plaatsen weder voor volgende berzoekers op dezelfde voorwaarden toegekend worden en op deze wijze voortdurend gedeelten grond ter aanteekening en bewoning voor het algemeen der geheele Republiek opengezet worden.

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right of approval or disapproval which they possess by the general laws.

6. Resolved that the waste lands of Lijdenburg shall gradually be thrown open for general settlement; that this shall be done on representations being made by the District Council mentioned in art. 4 or by the combined Executive Council, but in any case by a resolution of the Executive Council, and that the District Council shall be entitled to supply information or make remarks about it. Where there are farms in such territory, which have already been registered in the name of inhabitants of Lijdenburg, or which have been otherwise disposed of by Government, such arrangements shall hold good. And such tracts of waste territory shall thereafter be open for the registration of farms for the benefit of all persons residing within or without the territory of Lijdenburg, in fulfilment of rights to land which they may still possess in the shape of claims to farms. The registration takes place at the office of the Landdrost of the district under which the land falls. And at the time of throwing open such land the period within which such farms must be settled shall be laid down, and it shall be stated whether the owners are resident within the territory of Lijdenburg. And if this is not conformed to, and unless the Executive Council grants a special right to postpone the taking up of residence, such farms shall be granted to the next applicants on the same conditions; and in this way pieces of land shall continually be thrown open to the inhabitants of the whole Republic to be registered and to be occupied.

Indien de Uitv. Raad zulks nuttig oordeelt kunnen zij eene of meer plaatsen uithouden ten behoeve van het district waar die grond onder behoort en waarvoor zulks ook vereischt wordt.

7. Is vastgesteld, dat het district Lijdenburg geregtigd is om 9 leden voor den Volksraad te kiezen, van welke 9 leden, volgens wet, 6 de Volksraadsvergaderingen zullen bijwonen.

8. Wordt besloten, dat de Ned. Duitsche Hervormde Gereformeerde Gemeente thans in Lijdenburgs grondgebied bestaande, of later nog tot stand gebragt wordende, alle tezamen, zoowel als elk afzonderlijk in de zaken van Godsdienst en deszelfs Kerkelijk bestuur vrij zullen blijven, en nimmer door de andere gemeenten buiten Lijdenburgs grondgebied bestaande, gedwongen zullen mogen worden om hun kerkelijk bestuur overeenkomstig het hunne te moeten inrigten.

Echter zullen gezegde gemeenten in Lijdenburg grondgebied verpligt zijn zich te blijven gedragen overeenkomstig de bepalingen vervat in afdeeling 15 en 16 der Grondwet, in dato Lijdenburg, 26 September 1853.

Waarvan origineel en afsckrift hier bijgevoegd is.

9. Wordt besloten dat de behoorlijke betaling der in vroeger tijd door de gezamenlijke Volksraad gemaakte algemeene landsschulden gezamenlijk zullen betaald worden naar evenredigheid. Wat Lijdenburg's schuld aangaat, volgens de daarover genomen besluiten door den Volksraad der Republiek Lijdenburg. Deze schulden worden door het dan vereenigde Gouvernement gewaarborgd om door Lijdenburg betaald te worden. Elke Staat of district zal zijn eigen schuld moeten voldoen ; maar geen gronden of gelden van de eene Staat of district zullen mogen genomen worden om de schulden van de andere Staten of districten daarmede te betalen.

If the Executive Council shall deem such a step expedient, they may hold back one or more farms for the benefit of the district under which the land falls, or for whatever object this may seem necessary.

7. Resolved that the district of Lijdenburg is entitled to elect 9 members for the Volksraad, of which 9 members 6 shall attend the meetings of the Volksraad according to law.

8. [The Dutch Reformed Congregation at Lijdenburg shall never be forced to assimilate its form of church government to that of any other congregation. But the Lijdenburg congregation shall be subject to sections 15 and 16 of the Grondwet dated at Lijdenburg, 26 Sept. 1853.]

9. Resolved that the proper payment of the debts contracted in earlier years by the common Volksraad shall be borne in common and in due proportions. As regards Lijdenburg's debt, it shall be dealt with according to the resolutions passed thereon by the Volksraad of Lijdenburg. The combined Government guarantees the payment of these debts by Lijdenburg. Each state or district shall pay its own debts, and no lands or funds of one state or district shall be employed to pay the debts of the other states or districts.

10. Wordt besloten dat elk ingezetene van den geheelen Staat verpligt is om in tijd van oorlog den Staat in zulken oorlog te dienen.

Is bepaald dat indien enkele ingezetenen zonder wettige oorzaken moedwillig eenen oorlog met de blanke bevolking van de naburige Staten verwekken, of door het plegen van onwettigheden in hun gebied, of aan hunne onderdanen, de Gouvernementen van zulk een naburigen Staat of Staten wettige redenen geven om onze Republiek met eenen oorlog te bedreigen of dezelve aan te vallen, dat dan in zulke gevallen de inwoners van den vereenigden Staat niet gedwongen of genoodzaakt zullen worden om aan zulk eenen oorlog deel te nemen.

De inwoners die zulk een oorlog verwekken of trachten te verwekken, of daartoe aanleiding geven, zullen volgens de wetten gestraft moeten worden.

Maar in alle andere gevallen wanneer de gezegde naburige Gouvernementen zulk een oorlog beginnen met het doel of oogmerk om onze Republiek te verdrukken of in te nemen, of dat ons Gouvernement om de verdrukking van deze Republiek of deszelfs ingezetenen verpligt wordt om eenen oorlog tegen de gezegde Staten te maken, dan zullen alle ingezetenen van de geheele Republiek verpligt zijn deel te nemen aan zulk een oorlog, overeenkomstig de landswetten.

11. Wordt besloten om wat aangaat hetgeen door de Gouvernementen van beide Staten van af 12 Maart 1856, tot op den dag der vaststelling dezer vereeniging zoo wel binnen als buiten 's lands, elk Gouvernement of partij voor hetgeen door hun verrigt is, zelve verantwoordelijk zal blijven.

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10. It is decided that every inhabitant of the whole State shall be bound in time of war to serve the State in such war.

It is declared that, if a few inhabitants without lawful cause shall wilfully bring about a war with the white population of the neighbouring states, or, if by committing illegal acts in their territories or against their subjects, they shall give to the Governments of such neighbouring state or states lawful ground for threatening our Republic with war, or for attacking it: then, in such cases, the inhabitants of the united State shall not be forced or compelled to take part in such a war.

The inhabitants who bring about or attempt to bring about such a war, or give occasion for such a war, shall be punished according to law.

But in all other cases when the said neighbouring Governments shall begin such a war, with the aim and object to oppress or invade our Republic, or when our Government, by reason of the oppression of this Republic or the inhabitants thereof, is compelled to wage war against the said states: then all the inhabitants of the whole Republic shall be bound to take part in such war according to the laws of the country.

11. It is resolved as regards what was done by the Governments of the two States from the 12th March 1856 till the date of this union, as well within the country as outside it, that each Government or party shall remain responsible for what was performed by it.

12. Wordt besloten dat al de landspapieren van Lijdenburgs kantoor, aldaar zijnde, niet van daar weggenomen mogen worden.
Echter zullen ten allen tijde copijen opgegeven moeten worden op aanvraag van het Gouvernement tegen betaling volgens wet.
13. Wordt besloten dat de schulden ten laste van Lijdenburg volgens art. 9 ten kantore der districten van het grondgebied van Lijdenburg betaald kunnen of moeten worden, en dat verder alle schulden, die volgens wet door die lands- of Landdrostkantoren gemaakt worden, ook door die landskassen of Landdrosten aldaar uitbetaald moeten worden, maar de gelden volgens regt aan de algemeene landskas toekomende voor het onderhoud van den geheelen algemeenen staat moeten voortdurend overeenkomstig regt en wet aan het Gouvernement of de algemeene landskas afgegeven worden.
14. Wordt besloten, dat bij het tot stand komen der vereeniging, de zetel des Gouvernements te Pretoria gevestigd moet zijn.
15. Wordt besloten dat Lijdenburg het volle regt heeft om twee leden voor den Uitvoerenden Raad te kiezen, waarvan een van hun verpligt zal zijn voortdurend de vergadering bij te wonen.
16. Wordt besloten, dat zonder verzuim eene vaste brievenpost moet opgerigt worden.
17. Wordt besloten dat de Commandant-Generaal volgens vroegere aanstelling voor Lijdenburgs grondgebied zal blijven, en dat hij den ambtseed, overeenkomstig de Grondwet moet afleggen ; en dat verder door den vereenigden Uitvoerenden Raad, na de vaststelling der vereeniging pogingen zullen aangewend worden om met algemeene

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12. It is resolved that none of the state papers at present in the Lijdenburg office shall be removed thence, but copies shall always be supplied on the request of the Government on payment of the fees specified by law.

13. It is resolved that the debts resting on Lijdenburg may and shall be paid at the offices in the districts of the territory of Lijdenburg according to art. 9; and further, that all debts legally contracted by those public offices or Landdrosts' offices shall be defrayed there by those public treasuries or by the Landdrosts; but the monies rightfully belonging to the general public treasury for the maintenance of the whole State shall from time to time be paid to the Government or the general public treasury according to law and justice.

14. It is resolved that on the establishment of union the seat of government shall be fixed at Pretoria.

15. It is resolved that Lijdenburg has the full right of electing two members of the Executive Council of whom one shall be bound to attend the meeting continually.

16. It is resolved that a regular post should be established without delay.

17. It is resolved that the Commandant-General previously appointed for the Lijdenburg territory shall remain in office and that he shall take the oath of office prescribed by the Grondwet; and further, that after the establishment of the union the combined Executive Council shall attempt to get

goedkeuring van het publiek slechts één Commandant-Generaal voor de geheele Republiek te behouden.

18. De Landdrost van de plaats waar de zetel des Gouvernements is, zal worden benoemd op voordragt van den Uitvoerenden Raad door den Volksraad. Om daartoe benoembaar te wezen zal het geen vereischte zijn reeds eenigen tijd burger van dezen Staat te zijn geweest. De vaststelling van dit artikel wordt overgelaten aan het oordeel van den vereenigden Volksraad.

19. Wordt besloten, dat indien eene vereeniging tot stand gebragt wordt, van wederzijde de verpligting bestaat om alle voorwaarden van deze vereeniging volkomen en getrouw na te komen. En indien door het Gouvernement en door aandrang der ingezetenen van een der beide tegenwoordig bestaande Republieken inbreuken op een of meer artikelen gemaakt, en dezelve daardoor verbroken worden, dan zal daardoor deze vereeniging niet verbroken of ontbonden worden, maar zullen zij die daarop inbreuk hebben gemaakt volgens wet gestraft worden; de artikelen waarop inbreuk is gemaakt of die geschonden zijn blijven evenwel hun volle kracht behouden.

20. Wordt besloten aangaande de zaak van den heer J. A. Smellenkamp, die gevonnisd is door den Volksraad op den 17 den Junij 1854 tot betaling van Rds. 500 boete, wegens beleedigende uitdrukkingen jegens den WelEerw. D. van der Hoff en kerkeraad gebezigd, dat, in aanmerking nemende, dat genoemd vonnis een der oorzaken is geworden dat er eene verwijdering in deze maatschappij is ontstaan, dat den

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the general public to agree to the retention of only one Commandant-General for the whole Republic.

18. The Landdrost of the place where the seat of government is, shall be appointed by the Volksraad on the recommendation of the Executive Council. To be eligible for nomination it shall not be necessary for a person to have been a burgher of this State for some time. The adoption of this article shall be left to the judgment of the combined Volksraad.

19. It is resolved that if a union is brought about, the obligation shall rest on both parties to observe faithfully the conditions of this union in their entirety. And if one or more of the articles are violated by the Government and by pressure on the part of the inhabitants of either of the Republics now existing, then this union shall not be thereby dissolved or nullified, but those who shall have committed the breach shall be punished according to law; the articles, however, which have been broken or violated continue to be of full force.

20. With regard to the case of Mr. J. A. Smellenkamp, who has been sentenced by the Volksraad on the 17th June 1854 to pay a fine of 500 Rix-dollars for abusive remarks made to the Rev. D. Van der Hoff and the kerkraad, it is decided that, taking into consideration that the said sentence became one of the causes of estrangement in this community, the 500 Rix-dollars shall be returned to the said Mr. J. A. Smellenkamp, and that he shall, from this day (23 Nov. 1859), be exempted

genoemden heer J. A. Smellenkamp de Rds. 500 teruggegeven zullen worden, en dat hij van af den dag van heden (23 November 1859) ontheven wordt van het vonnis van den Landdrost van Potchefstroom, in dato 11 Julij 1854, waarbij hij is verbannen uit deze Republiek, en dat niemand, wie hij ook zijn moge, van heden af (23 November 1859) een dezer zaken in geschil of in proces mag brengen. De boete van Rds. 500 zal door beide Staten gemaatschappelijk worden betaald, volgens art. 9 dezer overeenkomst.

Het lid H. Buhrmann heeft zich bij de behandeling van dit artikel van de stemming onthouden, op grond dat hij agent in de zaak van den heer J. A. Smellenkamp is.

21. Wordt besloten dat de Grondwet der Z.A. Republiek wordt aangenomen, voor zooverre die niet strijdig is met een der bovenstaande en volgende voorwaarden van vereeniging.

22. Wordt besloten, dat alle verbeteringen die in de Grondwet of in andere wetten, nog gemaakt kunnen worden daarin zonder verzuim gebragt zullen worden.

23. Wordt besloten, dat als algemeene Staatsvlag de bestaande vlag der Z.A. Republiek wordt aangenomen; maar dat het district Lijdenburg een districtsvlag, welke ook niet strijdig met de Staatsvlag is, blijft behouden, en dat aan elk district van den geheele Staat, indien verkiezende, eene districtsvlag zal worden toegestaan, overeenkomstig de vereischten der Staatsvlag.

24. Wordt besloten, dat het Gouvernement der Z.A. Republiek en der Republiek Lijdenburg zorg zal dragen dat deze vereeniging

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from the sentence of the Landdrost of Potchefstroom, dated 11th July 1854, by which he was banished from this Republic, and that no person whatever may from this day (23 Nov. 1859) open a dispute or commence proceedings with regard to any of these matters. The fine of 500 Rix-dollars shall be paid by both states together according to art. 9 of this agreement.

The member, H. Buhrmann, has refrained from voting when this article was being dealt with, on the ground that he is the agent of Mr. J. A. Smellenkamp in the case.

21. Resolved that the Grondwet of the S.A. Republic be adopted in so far as it does not conflict with one of the preceding or of the following conditions of union.

22. Resolved that all improvements which can still be made in the Grondwet or in any of the other laws shall be effected without delay.

23. Resolved that as the general flag of the State the existing flag of the S.A. Republic be adopted; but that the district of Lijdenburg shall continue to have a district flag, which, moreover, shall not be at variance with the State flag, and that to each district of the whole State a district flag shall be given, if it is desired, which flag shall be in accordance with the requirements of the State flag.

24. Resolved that the Governments of the S.A. Republic and of the Republic of Lijdenburg shall see to it that this

zoo spoedig mogelijk aan het publiek bekend gemaakt en aan den vereenigden Volksraad ter bekrachtiging zal voorgelegd worden, bij welke bekrachtiging de vereeniging der Staten geheel tot stand gebragt is.

25. Wordt besloten en vastgesteld, dat, daar deze vereeniging tusschen de Z.A. Republiek en Lijdenburg met vele moeijelijkheden weder gelukkig tot stand gebragt is, dat niet toegelaten of gedoogd zal worden dat door iemand, wie het ook zij, de nu bestaande vrede gestoord zal worden, en dat om zulks te voorkomen bepaald worde dat niemand het regt zal hebben om de voor deze bestaan hebbende kwesties en al wat daarop betrekking heeft op te halen, en wie op deze wijze de vrede tracht te verstoren gestraft zal worden met eene geldboete van Rds. 25 tot 500, of verder naar den aard der zaak.

26. Besloten, om den vereenigden Volksraad op te roepen en deszelfs vergadering plaats zal hebben te Pretoria, op den eersten Maandag in April 1860, en zullen de leden van beide zijden 's morgens ten 10 ure aan het Landdrostkantoor moeten tegenwoordig zijn.

Aldus gedaan overeenkomstig Volksraadsbesluiten van beide zijden, en de notulen onzer vergadering alhier.

LANDDROSTKANTOOR, RUSTENBURG, 24 *November* 1859.

M. W. PRETORIUS, *President.*
W. C. J. VAN RENSBURG.
J. H. GROBLER.
H. T. BUHRMANN, *G.S.*
P. J. COETSER.
C. VILJOEN.
A. F. SCHUBART, *Gouvts. Secretaris.*

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union shall be made known to the public and shall be submitted to the combined Volksraad for its ratification, upon which ratification the union shall be complete and effective.

25. Whereas this union of the S.A. Republic and Lijdenburg has with great difficulty been happily brought about again, it is resolved and declared that it shall not be suffered that the now existing peace shall be disturbed by any person, whoever he may be, and that in order to avoid such disturbance of the peace it shall be laid down that no person shall have the right to bring up for discussion the previously existing disputes or anything that has any relation to them, and that whoever attempts to disturb the peace in that way shall be punished with a fine of 25 to 500 Rix-dollars or further punishment according to the nature of the case.

26. Resolved to summon the combined Volksraad to hold a meeting at Pretoria on the first Monday in April 1860, and that the members of both sides shall be present at the Landdrost's office at 10 o'clock in the morning.

This done in accordance with Volksraad resolutions of both parties and with the minutes of our meeting in this place.

LANDDROST'S OFFICE, RUSTENBURG, 24 Nov. 1859.

M. W. PRETORIUS, *President* [and others].

Goedgekeurd en geteekend op heden, den 4 den April 1860, te Pretoria, door den vereenigden Volksraad van de Z.A. Republiek en van Lijdenburg.

D. BOTHA, *Voorzitter.*
F. G. WOLMARANS.
J. H. R. LEMMER.
J. P. MARÈ.
J. H. VENTER.
J. H. W. PRETORIUS.
J. H. DUVENAGE.
D. S. D. DU PLESSIS.
L. M. BRONKHORST.
T. F. J. STEYN.
J. H. GROBLER.
G. SMIT.
C. GROBLER.
P. J. VAN STADEN.
J. J. P. PRINSLOO.

J. N. GROBLER, *Voorzitter.*
P. J. D. STEENKAMP.
J. J. MALAN.
J. VAN DIJK.
S. P. BOTHA.
W. STEENKAMP.
J. H. JACOBS.
J. H. BREITENBACH.
F. R. JANSEN VAN RENSBURG.
J. M. DE BEER.
A. B. JOUBERT.
G. C. SCHOEMAN.

Locale Wetten der Z.A. Rep. I. 133.

No. 189. VOOR VREDEREGTERS IN DE Z.A. REPUBLIEK.

[22 Julij 1870.]

WET No. 14, 1870.[1]

(Goedgekeurd en vastgesteld bij Volksraadsbesluit, dd. 3 Junij 1870, art. 154.)

NADEMAAL het noodig gevonden is ter betere handhaving der wet, dat Vrederegters in de verscheidene districten van dezen Staat zullen worden aangesteld, met magt om alle misdadigers en rondloopers binnen hun regtsgebied te arresteren, of te doen arresteren, en in de gevangenis te plaatsen, om teregtgesteld te worden, en in alle andere

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Approved and signed this 4th day of April 1860, at Pretoria, by the combined Volksraad of the S.A. Republic and of Lijdenburg.

D. BOTHA, *Chairman* [and others].
J. N. GROBLER, *Chairman* [and others].

No. 189. FOR JUSTICES OF THE PEACE IN THE S.A. REPUBLIC. [22 July 1870.]

LAW No. 14, 1870.[1]

(Approved and confirmed by Resolution of the Volksraad dated 3 June 1870, art. 154.)

WHEREAS it has been found necessary for the better enforcement of the law to appoint Justices of the Peace in the several districts of this State with power to arrest or cause to be arrested wrong-doers and vagrants within their jurisdiction, to be tried by law, and in all other matters to issue such orders

[1] Finally repealed by Procl. No. 34 of 1901.

zaken zoodanige bevelen en vonnissen te geven als bij de wet bepaald zal worden. Zoo wordt mits dezen vastgesteld en bepaald als volgt :

ART. 1. Zijn HEd. de Staatspresident zal de magt hebben, van tijd tot tijd daar, waar zulks mogt vereischt worden, bevoegde personen als Vrederegters aan te stellen voor een dorp, district of de geheele Zuid-Afrikaansche Republiek, onder eene aanstelling door hem onderteekend en met 's lands zegel belegd.

2. Alle Vrederegters zoo aangesteld, zullen de magt hebben om beëedigde verklaringen af te nemen, op zoodanige verklaringen misdadigers te doen arresteren en ter voorlopig onderzoek of teregtstelling in de gevangenis te plaatsen of op te zenden naar de naastbij zijnde gevangenis en zullen zij gehouden zijn daarvan dadelijk kennis te geven aan den Publieken Aanklager van het district waar die misdaad heeft plaats gevonden, met toezending van copijen der afgelegde verklaringen.

3. Alle Vrederegters zijn hierdoor gemagtigd, wanneer er geen Landdrost aanwezig is, om op een beëedigde klagte door eenig persoon gemaakt over dreigementen van aanranding en dergelijke misdaden tegen het ligchaam of de goederen, en na zich overtuigd te hebben dat zoodanige misdaad waarschijnlik zal gepleegd worden, den verdachten persoon voor hem te ontbieden om voldoende borgen te stellen voor zijn stil en rustig gedrag, en bij gebreke om daaraan te voldoen, zoodanig persoon in verzekerde bewaring te nemen of te doen nemen, en van een en ander dadelijk aan den Staatsprocureur of zijn vertegenwoordiger kennis te geven met toezending der borgacte.

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and judgments as shall be specified by law : Therefore it is declared and affirmed as follows :

ART. 1. The State President shall have the power from time to time, as the necessity may arise, to appoint as Justices of the Peace competent persons for a town or district, or for the whole South African Republic, under a commission signed by him and sealed with the public seal.

2. All Justices of the Peace so appointed shall have the power to take down sworn declarations, to cause wrong-doers to be arrested on such declarations and to put them in prison for preliminary examination or trial, or to send them to be imprisoned in the nearest jail ; and they shall be held to give immediate notice thereof to the Public Prosecutor of the district where the crime was committed, and to despatch to him copies of the declarations made.

3. Every Justice of the Peace is hereby empowered, when no Landdrost shall be present, if a complaint shall be made on oath by any person to the effect that threats of assault and similar crimes against his person or property have been made, and after having satisfied himself that such crimes are likely to be committed, to summon the suspected person before him to give sufficient security for his quiet and peaceful behaviour, and if he shall fail to do so, to place or cause to be placed in secure confinement such person, and to report the whole case to the State Attorney or his representative, at the same time transmitting the deed of security.

4. Zijn HEd. de Staatspresident zal op de dorpen waar geen Landdrost aanwezig is Resident Vrederegters kunnen aanstellen, die behalve de magt hierboven aan Vrederegters toegekend, bevoegd zullen zijn om civiele en crimineele zaken te onderzoeken en te beslissen, dagvaardingen uit te reiken en vonnis te vellen in crimineele zaken tot 3 maanden gevangenisstraf met of zonder harden arbeid in of zonder ijzers en 25 slagen, of geldboete tot een bedrag van £7, 10s.; en in civiele zaken voor alle eischen niet te bovengaande een bedrag van £37, 10s. in liquide zaken, en van £15 in illiquide zaken, buiten de kost, zullende de vonnissen binnen den gewonen termijn in appèl kunnen gebragt worden voor den Landdrost van het district, die tot dat einde alle drie maanden op den 3 den Woensdag der maand op het dorp, waar zoodanig Vrederegter resideert, zal zitting houden, bij welke gelegenheid de Vrederegter als klerk zal ageren.

5. [De Vrederegters zullen beëedigd worden.]

6. Deze wet zal kracht hebben volgens bepaling in art. 69 der Grondwet.

M. J. VILJOEN, *Wd. Staatspresident.*
(Op last) J. J. MEINTJES, Jr., *Wd. Gouvts. Secretaris.*

GOUVERNEMENTSKANTOOR,
PRETORIA, 22 *Julij* 1870.

Locale Wetten der Z.A. Rep. I. 412.

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4. The State President is authorised to appoint Resident Justices of the Peace in the towns where no Landdrosts are stationed to exercise the power given above to Justices of the Peace, and also to be competent to try and decide civil and criminal cases, to issue summonses, and to pronounce judgment in criminal cases not exceeding 3 months' imprisonment, with or without hard labour, in chains or without chains, and [to order corporal punishment to be inflicted not exceeding] 25 lashes; or to impose fines to the sum of £7, 10s.; and in civil cases for all demands not exceeding the sum of £37, 10s. in liquid cases, and of £15 in illiquid cases not including the costs. Such judgments shall be subject to appeal within the usual period before the Landdrost of the district who for this purpose shall hold a session every three months on the 3rd Wednesday of the month in the town where such Justice of the Peace shall reside, on which occasion the Justice of the Peace shall act as clerk.

5. [Justices to take an oath.]

6. This law shall take effect according to the provisions of art. 69 of the Grondwet.

M. J. VILJOEN, *Acting State President.*
(By order) J. J. MEINTJES, Jr., *Acting Govt. Sec.*

GOVERNMENT OFFICE,
PRETORIA, 22*nd July* 1870.

No. 190. VOLKSRAADSBESLUIT, 6 NOVEMBER 1871.

ART. 280.[1] De Volksraad besluit, dat artikel 61 der Grondwet zal luiden als volgt:

"De Staatspresident wordt door meerderheid der stemgeregtigde burgers gekozen, en zal in functie blijven voor den tijd van vijf jaren, tenzij hij voor zijne betrekking moge bedanken, of om wettige redenen ontslagen wordt door den Volksraad. Om verkiesbaar te zijn moet hij den ouderdom van 30 jaren hebben bereikt, behoeft hij op den dag zijner benoeming geen burger van dezen Staat te wezen, maar moet hij lidmaat zijn van eene Protestantsche Kerk en geen onteerend vonnis ten zijnen laste hebben."

Locale Wetten der Z.A. Rep. I. 427.

No. 191. INSTRUCTIE VOOR DEN THESAURIER-GENERAAL.

[27 Dec. 1871.]

WET No. 6, 1871.[1]

(Goedgekeurd en vastgesteld bij besluit van den Volksraad, artt. 443 en 447, dd. 5 en 6 December 1871.)

ART. 1. De finantieele aangelegenheden van de Zuid-Afrikaansche Republiek, hetzij Staatsinkomsten of uitgaven, gewone of buitengewone, en de administratie aan de landskas, behooren tot het resort van den

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No. 190. RESOLUTION OF THE VOLKSRAAD, 6 NOVEMBER 1871.

ART. 280.[1] The Volksraad decides that article 61 of the Grondwet shall read as follows:

"The State President shall be chosen by majority of the votes of the burghers possessing the franchise, and shall remain in office for the period of five years, unless he shall resign his post or shall be dismissed by the Volksraad on lawful grounds. To be eligible he must have reached the age of 30 years, and it is not required that he shall on the day of his nomination be a burgher of this State; but he shall be a member of a Protestant Church, and he shall have had no dishonouring sentence passed against him."

No. 191. INSTRUCTIONS TO THE TREASURER-GENERAL. [27 Dec. 1871.]

LAW No. 6, 1871.[1]

(Sanctioned and confirmed by resolution of the Volksraad, arts. 443 and 447, dated 5 and 6 December 1871.)

ART. 1. The financial relations of the South African Republic, the ordinary as well as the special revenues and expenditure of the State, fall under the department of the

[1] Repealed by Procl. No. 34 of 1901.

Thesaurier-Generaal. Hij heeft het bestuur over de Gouvernementsnoten en over het vervaardigen en uitgeven van postzegels.

2. Van zijne geheele administratie moet hij behoorlijk boek en rekening houden.

3. Hij moet bij het opmaken en vaststellen der Begroting, en buitengewone uitgaven en de daartoe noodige en te voorziene middelen toegelaten worden, en heeft tot dit einde in alle geldelijke aangelegenheden zitting en eene adviseerende stem in den Uitvoerenden Raad.

4. Alle Landdrosten en andere ambtenaren belast met geldelijke administratie zijn ook verpligt duplicaat-rekening bij den Thesaurier-Generaal in te dienen, en heeft hij daarop toe te zien dat dit tijdig en op behoorlijke wijze geschiedt. Nalatige en in gebreke blijvende ambtenaren is hij zoowel geregtigd als verpligt aan te schrijven en des noods aan den Uitvoerenden Raad te rapporteren.

5. Alle met geldelijke zaken belaste ambtenaren moeten maandelijks het saldo in kas bij den Thesaurier-Generaal storten, in gebreke waarvan zij zullen behandeld worden overeenkomstig het laatste gedeelte van art. 4.

6. De Thesaurier-Generaal mag alleen rekeningen uitbetalen die door den Auditeur-Generaal zijn goedgekeurd, en welke van de noodige bewijzen van wettigheid en van eene behoorlijke volmagt tot uitbetaling vergezeld zijn.

7. De Thesaurier-Generaal moet daarop stiptelijk toezien dat alle publieke Staatsinkomsten werkelijk op den bepaalden tijd ingevorderd

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Treasurer-General. He has the management of the Government notes and of the making and issuing of postage stamps.

2. Of his whole administration he shall keep book and account in a fitting manner.

3. For preparing and settling the budget or any special expenditure, and the necessary means to be provided therefor, he shall take session and have an advisory vote in the Executive Council on all financial matters.

4. All Landdrosts and other officials charged with the financial administration are in duty bound to hand in accounts in duplicate to the Treasurer-General, who shall see to it that this is accomplished in time and in a fitting manner. He is authorised and charged to write to any negligent officials and, if necessary, to report them to the Executive Council.

5. All officials charged with financial affairs shall every month pay to the Treasurer-General the funds in hand. Failing to do this they shall be dealt with according to the last part of art. 4.

6. The Treasurer-General shall settle only such accounts as have been approved of by the Auditor-General, and are accompanied by the necessary proofs of legality and proper authorisation for settlement.

7. The Treasurer-General shall see to it strictly that all public revenues are actually collected at the times specified,

worden en moet hij alle daarbij voorkomende ongeregeldheden en vertraging zonder verzuim aan den Uitvoerenden Raad bekend maken.

8. Ten einde buitengewone, niet op de Begrooting bepaalde uitgaven te bewerkstelligen, en waarvoor geene fondsen aanwezig zijn, moet de Thesaurier-Generaal de middelen tot verkrijging der fondsen voorstellen aan het gouvernement.

9. De Thesaurier-Generaal is verpligt in de eerste week van iedere maand zijne maandstaten met toebehoren van de vorige maand bij den Auditeur-Generaal in te dienen, ook zal hij alle zes en twaalf maanden een staat van ontvangsten en uitgaven van 's lands kas in de *Staatscourant* publiceeren; en bij het einde van het finantiëele jaar zijne boeken behoorlijk afsluiten.

10. Ieder Landdrost en elk Hoofdambtenaar van den Staat zal verpligt zijn een inventaris van Gouvernements eigendommen in zijn departement, zooals gebouwen, gronden, kantoormeubels, enz. bij den Thesaurier-Generaal in te dienen en de waarde of inkoopprijs daarvan aangeven, en moeten nieuwe aangekochte meubels, gebouwen en andere eigendommen dadelijk aan den Thesaurier-Generaal worden gerapporteerd.

11. De Thesaurier-Generaal zal alleen zulke rekeningen betalen door den Auditeur-Generaal geteekend, welke zijn volgens Begrooting of volgens besluit van den Uitvoerenden Raad.

12. Deze instructie zal onmiddelijk in werking treden.

Locale Wetten der Z.A. Rep. I. 457.

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and he shall without delay inform the Executive Council of the occurrence of any irregularities therein.

8. In order to arrange for special expenses which do not appear in the budget, and for which no funds are available, the Treasurer-General shall propose to Government the means by which the funds may be procured.

9. During the first week of every month the Treasurer-General shall submit to the Auditor-General his monthly returns with the necessary papers for the previous month; he shall also, every six months and every year, publish in the *Staatscourant* a statement of the receipts and expenditure of the public treasury, and at the end of the financial year he shall make up his books in a fitting manner.

10. Every Landdrost and every chief official of the State shall submit to the Treasurer-General an inventory of the Government property in his department, such as buildings, lands, office furniture, etc., with the value or cost price specified; and the addition of new furniture, buildings and other property shall immediately be reported to the Treasurer-General.

11. The Treasurer-General shall settle only such accounts signed by the Auditor-General as shall be in accordance with the budget or in accordance with a resolution of the Executive Council.

12. These instructions shall take effect immediately.

No. 192. VOLKSRAADSBESLUIT, 25 JULIJ 1872.

Art. 136.[1] Aan de orde Uit. Raadsbesluit dd. 12 Julij 1872, art. 20:

Bij art. 3 van het Reglement van Orde te voegen: "Tevens zal geen ambtenaar van den Staat, die als zoodanig bezoldiging geniet, als lid van den Volksraad verkiesbaar zijn." [2]

Dit Voorstel van Wet wordt door den Volksraad met acclamatie aangenomen.

Locale Wetten der Z.A. Rep. I. 465.

No. 193. REGELENDE HET ALGEMEEN KIESREGT DER BURGERS VAN DE ZUID-AFRIKAANSCHE REPUBLIEK. [12 Junij 1876.]

WET No. 1, 1876.[3]

(*Geodgekeurd en vastgesteld bij Volksraadsbesluiten, dd. 29 Mei 1876, artt. 61, 64, 67, 71, 75, 80 en 91.*)

NADEMAAL het wenschelijk is, dat het kiesregt van de burgers der Zuid-Afrikaansche Republiek nader bepaald en omschreven worde, zij het hierbij vastgesteld als volgt:

ART. 1. Elk burger van de Zuid-Afrikaansche Republiek zal ge-

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No. 192. RESOLUTION OF THE VOLKSRAAD, 25 JULY 1872.

ART. 136.[1] On the agenda a resolution of the Executive Council, dated 12 July 1872, art. 20:

To add to art. 3 of the Rules of Order: "Also, no official of the State, who as such receives a salary, shall be eligible as a member of the Volksraad." [2]

This proposed law is passed by acclamation by the Volksraad.

No. 193. REGULATING THE GENERAL FRANCHISE OF THE BURGHERS OF THE SOUTH AFRICAN REPUBLIC. [12 June 1876.]

LAW No. 1, 1876.[3]

(*Sanctioned and confirmed by resolutions of the Volksraad, dated 29 May 1876, arts. 61, 64, 67, 71, 75, 80, and 91.*)

WHEREAS it is desirable further to lay down and define the franchise of the burghers of the South African Republic, be it hereby enacted as follows:

ART. 1. Every burgher of the South African Republic

[1] Repealed by Procl. No. 34 of 1901.

[2] On 4 Sept. 1871 the Volksraad had passed a resolution, "that Messrs. Jeppe and Smit, though civil servants, are not prohibited by law from sitting as members of the Volksraad." *Locale Wetten der Z.A. Rep.* I. 417.

[3] Modified by a subsequent franchise law, No. 7, 1882, and finally repealed by Procl. No. 34 of 1901. *Vide* also the franchise law on p. 500.

regtigd zijn te stemmen bij verkiezingen, met inachtneming van de hieronder volgende bepalingen :

a. Om burger te zijn moet men binnen de Republiek geboren zijn en den ouderdom van 21 jaren bereikt hebben, behalve in de keuze van krijgsofficieren, wanneer de ouderdom van 18 jaren voldoende zal zijn.

b. Niet in de Republiek geboren, maar van elders komende, moet men, om burger te zijn, eigenaar wezen van vast goed binnen de Republiek.[1]

c. Iemand van elders komende en geen vastgoed in de Republiek bezittende verkrijgt het burgerregt door een jaar inwoning, gehoorzaamheid aan de wet en goed gedrag.[1]

d. Geen persoon, buiten den Staat geboren als genoemd in letter *b* en *c* en na het passeeren dezer wet in de Republiek komende, zal stemgeregtigd zijn tenzij hij door het afleggen van den volgenden eed, voor den daartoe door de Regering aangestelden ambtenaar, als burger of onderdaan dezer Republiek is genaturaliseerd : [1]

" Ik beloof en zweer plegtig trouw aan het Volk en de

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shall be entitled to vote at elections according to the following regulations :

a. To be a burgher one shall have been born in the Republic, and have reached the age of 21 years, except when military officers are to be elected, in which case the age of 18 shall suffice.

b. A person not born in the Republic but having come in from elsewhere must, in order to become a burgher, be the owner of immovable property within the Republic.[1]

c. A person coming in from elsewhere and possessing no immovable property obtains burgher-rights by one year's residence, obedience to the laws and good behaviour.[1]

d. No person born outside the State, as mentioned under the letters *b* and *c*, and coming into the Republic after the passing of this law, shall possess the franchise unless, by taking the following oath before an official appointed by Government for that purpose, he shall become naturalised as a burgher or subject of this Republic : [1]

" I promise and solemnly swear to be true to the People and the Government of this Re-

[1] Law No. 7, 1882, demanded of foreigners the acquirement of papers of naturalisation after 5 years' residence, *or* the taking of an oath of fidelity. But surely this is an error : instead of *of* (or) in sub-sect. *b* of art. 1 we ought to read *en* (and), so that both the 5 years' residence and the oath were required. *Locale Wetten der Z.A. Rep.* I. 1131–32.

Regering dezer Republiek, gehoorzaamheid aan de wetten en trouw aan hare onafhankelijkheid."

2. Niemand, die niet tot de blanke bevolking [1] van de Z.A. Republiek wordt gerekend, zal als stemgeregtigde burger aangeteekend worden, volgens art. 9 der Grondwet.

3. De in bovenstaande artikelen vermelde burgers hebben het regt om hunne namen als kiezers te doen aanteekenen bij hunne respectieve Veldcornetten.

4. Alleen de aldus aangeteekende stemgeregtigden hebben het regt om hunne stemmen uit te brengen als volgt:

a. Voor het kiezen van een Veldcornet der wijk, elk in zijne eigene wijk.

b. Voor een Raadslid zijner wijk of kiesafdeeling.

c. Voor elke verkiezing die het geheele district betreft.

d. Voor elke verkiezing die de geheele Republiek betreft.

5. Niemand mag deel nemen of zijn stem uitbrengen bij eene verkiezing, voor een wijk of een district, waarin hij niet op de lijst der kiezers is aangeteekend.

6. Elk stemgeregtigde van een distrikt, dat niet in kiesafdeelingen verdeeld is, kan zijne stem uitbrengen op zoovele kandidaten als er vakaturen zijn, waarvoor gestemd moet worden.

7. Elk stemgeregtigde burger, die zijn stem wenscht uit te brengen op een kandidaat, moet den dag of de dagen, het uur of de uren, en de

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public, to yield obedience to the laws and allegiance to its independence."

2. No person not regarded as belonging to the white population [1] of the S.A. Republic shall be enrolled as a burgher possessing the franchise, according to art. 9 of the Grondwet.

3. The burghers as mentioned in the above articles have the right to have their names enrolled as electors by their respective Field-cornets.

4. Only those thus enrolled as possessing the franchise have the right to record their votes as follows:

a. For electing a Field-cornet of a ward each one shall vote in his own ward.

b. For a member of the Raad to represent his ward or electoral division.

c. At every election which concerns the whole district.

d. At every election which concerns the whole Republic.

5. No one may take part or record his vote at an election for a ward or a district in which he is not entered on the voters' roll.

6. Every elector of a district which is not divided into electoral divisions can record his vote for as many candidates as there are vacancies that must be filled.

7. Every burgher possessing the franchise who wishes to record his vote for a candidate must take note of the day or

[1] Attempts to specify those classes of people who were not regarded as white were made in Law No. 2, 1883, art. 6, and Law No. 3, 1885, arts. 1 and 2.

plaats van stemming, door de daartoe aangestelde stemopnemers te worden bepaald, in acht nemen, en in persoon verschijnen, ten einde zulks te doen.

8. [Dadelijk na den afloop der stemming zullen nog denzelfden dag al de stembiljetten naar den Landdrost verzonden worden en door hem aan den Staatssecretaris.]

9. Elk Veldcornet is verpligt jaarlijks in de maanden November en December aanteekening te doen van al de stemgeregtigden in zijne wijk, en zal tevens verpligt wezen op verzoek van nieuwe ingekomene burgers aanteekening te doen.

10. Hij zal daarvan behoorlijk boek houden en een gecertificeerde afschrift daarvan aan den Landdrost van zijn district toezenden. . . .

11. De Veldcornet heeft het regt te weigeren om den naam van iemand aan te teekenen wanneer hij vermeent daarvoor gegronde redenen te hebben, welke redenen echter wanneer de tegenpartij verkiest, aan het oordeel van den Landdrost of desverkiezende aan het oordeel van den Uitv. Raad zullen worden overgelaten.

12. De Landdrost van ieder district zal jaarlijks in de maand Ferbruarij van elk der in art. 10 vermelde copien een gecertificeerde afschrift aan den Staatssecretaris opzenden.

Ook zal hij de lijsten der kiezers doen publiceren in de *Staatscourant*. . . .

13. Het volgens bovenstaande bepalingen verkregen kiesregt gaat verloren of wordt vernietigd als volgt:

a. Door het verbeuren of verliezen van zijn burgerregt.

b. Door het met ter woon verlaten der Republiek.

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days, the hour or hours, and the place of voting to be fixed by the recording officer appointed for that purpose, and he must appear in person in order to do so.

8. [Immediately after the completion of the poll and on the same day, all the voting-papers shall be sent to the Landdrost to be forwarded to the State Secretary.]

9. Every Field-cornet is bound annually in the months of November and December to make a register of all those entitled to vote in his ward, and he shall further be bound to enrol newly arrived burghers on request being made by them.

10. He shall keep book properly thereof, and shall send a certified copy thereof to the Landdrost of his district. . . .

11. The Field-cornet has the right to refuse to enrol the name of a person when he believes he has good reasons for so doing, which reasons, however,—should the party wish it,—shall be left to be decided on by the Landdrost, or, if this be preferred, by the Executive Council.

12. The Landdrost of each district shall annually in the month of February send to the State Secretary a certified copy of each of the copies mentioned in art. 10.

He shall also publish the lists of voters in the *Staatscourant*. . . .

13. The franchise obtained according to the above articles is lost or nullified in the following ways:

a. By any person forfeiting or losing his burgher right.

b. By removal from the Republic to reside elsewhere.

c. Door het verhuizen of vertrekken uit de ééne wijk of district naar een andere, wanneer men zich op nieuw moet laten aanteekenen in de wijk of het district waar men zich met ter woon vestigt.

d. Door het ontvangen van crimineele vonnissen, die onteerend zijn.

14. Iemand kan ook zijn kiesregt verbeuren door hetzelve in strijd met deze wet uit te brengen.

15. Die zich tot het kiezen van den eenen of anderen kandidaat heeft laten omkoopen verliest zijn kiesregt.

16. Overtreders dezer wet, volgens art. 15, zullen bovendien gestraft worden met eene boete van £5 tot £10, of gevangenisstraf van niet meer dan drie maanden, naar den aard der zaak.

17.[1] Alle vroegere bepalingen, wetten en besluiten omtrent kiesregt vóór ket passeren dezer wet van kracht, worden hiermede herroepen, behalve de wet of de regulatien die omtrent de verkiezing van leden van de Goudvelden bestaan, welke in volle kracht blijven.

18. Burgers die in lands dienst op kommando van hunne kiesafdeeling afwezig zijn, bij geval van eenige belangrijke kiezing, zullen het regt hebben om bij eenigen officier of stemopnemer, daartoe bevoegd, hunne stem uit te brengen op tijd en plaats, welke behoorlijk aldaar zal vastgesteld worden, indien zoodanige burgers aan de andere vereischten dezer wet voldoen. . . .

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c. By moving or departing from one ward or district to another, when it is necessary to be enrolled anew in the ward or district where residence is taken up.

d. By being convicted of any infamous crime.

14. A person may also forfeit his franchise by exercising it in a manner contrary to this law.

15. Any person who has accepted a bribe to vote for any candidate loses his franchise.

16. Those who contravene this law according to art. 15 shall moreover be punished with a fine of £5 to £10 or with imprisonment lasting not more than three months, according to the nature of the case.

17.[1] All earlier regulations, laws and resolutions regarding the franchise, which were in force prior to the passing of this law, are hereby repealed, except such law or regulations as exist for the election of members of the gold-fields. These remain in full force.

18. Burghers who are absent from their electoral division in the country's service on commando on the occasion of any important election, shall have the right to record their votes with any officer or recorder of votes authorised thereto, at a time and place properly fixed there, provided that such burghers shall conform to the other demands of this law. . . .

[1] This article was omitted in Law No. 7, 1882.

19. [De bij de wet benoemde stemopnemers zullen beëedigd worden en zullen een salaris genieten.]

20. Hun eed zal zijn als volgt: [Eed weggelaten.]

21. Deze wet zal in werking treden volgens art. 69 der Grondwet.

Locale Wetten der Z.A. Rep. I. 645.

No. 194. VOOR DEN KRIJGSDIENST. [6 Junij 1876.]

WET NO. 2, 1876.[1]

(*Goedgekeurd en vastgesteld bij Volksraadsbesluit, dd. 2 Junij 1876, artt. 94, 96 en 97.*)

ART. 1. De Staatspresident, met toestemming van den Uitvoerenden Raad, verklaart oorlog en vrede.[2]

Het vredestractaat behoeft de goedkeuring van den Volksraad, die daartoe zoo spoedig mogelijk wordt zamengeroepen.

2. De Staatspresident, met toestemming van den Uitvoerenden Raad, geeft last tot een commando, doch in geval de Uitv. Raad niet tijdig genoeg bijeen kan komen, kan de Staatspresident [3] zulks doen buiten hen en zulks ter zijner verantwoording.

3. Onder een commando wordt in deze wet verstaan het uitgaan

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19. [The recorders of votes nominated by law shall be sworn and shall receive a salary.]

20. Their oath shall be as follows: [Not copied.]

21. This law shall take effect according to art. 69 of the Grondwet.

No. 194. FOR MILITARY SERVICE. [6 June 1876.]

LAW NO. 2, 1876.[1]

(*Sanctioned and confirmed by resolution of the Volksraad, dated 2 June 1876, arts. 94, 96, and 97.*)

ART. 1. The State President, with the concurrence of the Executive Council, declares war and concludes peace.[2]

Any treaty of peace needs the approval of the Volksraad, which shall be summoned as soon as possible for that purpose.

2. The State President, with the concurrence of the Executive Council, gives orders for sending out a commando, but in case the Executive Council can not meet in time, the State President [3] can do so without its concurrence and on his own responsibility.

3. By a commando is understood in this law the going out

[1] Superseded by Law No. 2, 1883, and finally repealed by Procl. No. 34 of 1901.

[2] Law 2, 1883, provides that if possible the Volksraad shall first be summoned.

[3] Law 2, 1883, says, "the President by the advice of the Commandant-General in his capacity as member of the Executive."

van gewapende burgers en onderdanen van den Staat ter zake der opstanden van kleurlingen of tot demping van onlusten onder de blanke bevolking.

4. Nadat de burgers tot den krijgsdienst zullen opgeroepen zijn, zullen zij staan onder het gezag en bevel van de volgende officieren, zijnde naar rang van opklimming, die verantwoordelijk zijn volgens de Grondwet: Assistent Veldcornetten, Veldcornetten, Commandanten en Commandant-Generaal.

Voor ieder district wordt een Commandant gekozen door de Veldcornetschappen van het district vóórdat zij zulks verlaten zullen hebben, op zoodanigen dag en plaats als door ZHEd. den Staatspresident zal worden bepaald.

De Commandant-Generaal wordt gekozen door het geheele leger,[1] op zoodanige plaats en tijd als door ZHEd. den Staatspresident zal worden bepaald.

Het salaris van den Commandant-Generaal wordt bepaald op één pond tien shillings sterling per dag, wanneer hij in dienst is, en dat van de commandanten op vijftien shillings per dag wanneer zij in dienst zijn.

5. De Staatspresident, met den Uitvoerenden Raad, geeft last tot alle oproepingen voor oorlog of commandos,[2] en heeft het opperbevel over het gehele leger.

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of armed burghers and subjects of the State in the event of risings of coloured people, or to put down disturbances among the white population.

4. After the burghers shall have been called up for military service they shall stand under the authority and command of the following officers, from the lowest upwards, which officers shall be responsible according to the Grondwet: Assistant Field-cornets, Field-cornets, Commandants and the Commandant-General.

For each district a Commandant shall be chosen by the Field-cornetcies of the district before they shall have departed from it, on such day and at such place as shall be fixed by the State President.

The Commandant-General shall be chosen by the whole army,[1] at such place and time as shall be fixed by the State President.

The salary of the Commandant-General shall be fixed at one pound ten shillings sterling per day while he is serving, and that of the Commandants at fifteen shillings per day while they are serving.

5. The State President, together with the Executive Council, gives orders for any calling-up for war or commandos,[2] and has the supreme command of the whole army.

[1] This provision is omitted from Law No. 2, 1883.

[2] Law No. 2, 1883, art. 5, places the duty of calling-up on the Commandant-General.

6. Alle ingezetenen tusschen 16 en 60 jaren oud, die geene wettelijke reden van verschooning hebben, zijn verpligt krijsdienst te doen.[1]

Jongelieden beneden 18 jaren oud en mannen boven de 50 zullen niet dan in de uiterste noodzakelijkheid worden opgeroepen.

De kleurlingen die in staat zijn om in den krijg van dienst te wezen, kunnen opgeroepen worden.

7. [Vrijstellingen door de wet erkend.]

8. [Vrijgestelden zijn verplicht bijdragen te doen.]

9–44. [Bovengemelde bepalingen meer in 't bijzonder behandeld.]

Locale Wetten der Z.A. Rep. I. 649.

No. 195. VOLKSRAADSBESLUIT, 15 JUNIJ 1876.

ART. 230. De Volksraad besluit omtrent de zaak thans aan de orde,[2] af te keuren dat de Uitv. Raad in strijd met de Grondwet zich als een regterlijk lichaam boven een vonnis van het Hoog Geregtshof gesteld heeft. *Locale Wetten der Z.A. Rep.* I. 669.

No. 196. VOLKSRAADSBESLUIT, 7 MAART 1877.

ART. 32. Aan de orde, het voorstel der Commissie vervat in het rapport.

Dit voorstel wordt algemeen aangenomen.

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6. All inhabitants between the ages of 16 and 60, who have no lawful grounds for exemption, are bound to perform military service.[1]

Youths below 18 years of age and men above 50 shall not be called up except in case of extreme need.

The coloured people who are able to be of service in war are liable to be called up.

7. [Exemptions provided for by law.]

8. [Those exempted shall be held to make contributions.]

9–44. [The above provisions dealt with in greater detail.]

No. 195. RESOLUTION OF THE VOLKSRAAD, 15 JUNE 1876.

ART. 230. With regard to the matter now under discussion [2] the Volksraad resolves to express its disapproval of the action of the Executive Council in having placed itself as a judicial body above a sentence of the High Court of Justice in contravention of the Grondwet.

No. 196. RESOLUTION OF THE VOLKSRAAD, 7 MARCH 1877.

ART. 32. On the agenda, the proposal of the Committee contained in the report.

This proposal is adopted unanimously.

[1] Law No. 2, 1883, provides that a man called up may supply a substitute to be approved of by his Field-cornet.

[2] Resolution of the Executive, 12 June 1876, art. 108, setting aside a sentence of the High Court at Zeerust, in Munnich *v.* Baumann.

De Volksraad besluit:

Dat, daar H.M.'s Specialen Commissaris, volgens zijn Excellenties uitgedrukt gevoelen, van oordeel is, dat de onafhankelijkheid der Republiek niet gered of gewaarborgd kan worden door veranderingen en hervormingen.

En de Volksvertegenwoordiging ten volle bereid is om alle gronden van grieven tegen den Staat, hetzij deze in schijn of werkelijkheid bestaan—uit den weg te ruimen en tevens gereed is doortastende maatregelen te nemen, gelijk zij reeds gedaan heeft, ter voorkoming van die ongeregeldheden waarover geklaagd wordt en tot betere regeling en bewaring van den vrede en de goede orde.

En het duidelijk blijkt uit den brief aan Zijne Excellentie Sir Henry Barkly, met de daarbij gevoegde documenten, dat Harer Majesteits Regering niet van zin is de Republiek tegen haren zin te dwingen tot prijsgeving van hare onafhankelijkheid.

En tevens de Raad ten volle vertrouwt op de regtvaardigheid van Harer Majesteits Regering en verzekerd is dat zij niet zou kunnen gebieden om den burgers der Republiek hun heiligste goed te ontvreemden.

De Regering op te dragen om met Haren Britschen Majesteits Specialen Commissaris in onderhandeling te treden, met het doel om de zelfstandigheid van den Staat te handhaven en tevens zoodanige tractaten te sluiten als noodig moogen zijn tot bewaring van de goede verstandhouding tusschen de Republiek en Harer Britsche Majesteits

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The Volksraad decides:

That, as H.M.'s Special Commissioner, according to His Excellency's expressed views, is of opinion that the independence of the Republic cannot be saved or guaranteed through changes or reforms;

And as the representative body is fully prepared to remove all grounds of grievance against the State, whether these actually exist or in appearance only, and is further prepared to take far-reaching measures—as it has already done—in order to avoid those irregularities of which complaint is being made, and for the better preservation of peace and good order;

And as it clearly appears from the letter of His Excellency Sir Henry Barkly and the documents attached thereto, that Her Majesty's Government are not minded to force the Republic against its wish to sacrifice its independence;

And as the Raad further has full faith in the justice of Her Majesty's Government, and is convinced that it would not command the burghers of the Republic to be deprived of their most sacred possession;

That therefore the Government be instructed to enter into communication with Her Britannic Majesty's Special Commissioner, with a view to maintaining the autonomy of the State, and further to conclude such treaties as may be necessary for preserving the good understanding between the Republic and Her Britannic Majesty's Government and for maintaining

Regering en tot handhaving van de algemeene veiligheid van Zuid Afrika, orde en rust, ten opzigte van de Naturallen.

Locale Wetten der Z.A. Rep. I. 683.

No. 197. GOUVERNEMENTS KENNISGEVING.

Ter algemeene informatie wordt onderstaand Uitv. Raadsbesluit, dd. 11 April 1877, art. 7, hiermede gepubliceerd.

THOS. BURGERS, *Staatspresident.*

GOUVERNEMENTSKANTOOR,
PRETORIA, 11 *April* 1877.

GOUVERNEMENTSKANTOOR, Z.A. REPUBLIEK,
PRETORIA, 11 *April* 1877.

Aan de order:

Brief van Harer Britsche Majesteits Specialen Commissaris, dd. 9 April 1877, kennis gevende dat Zijne Excellentie tot het besluit is gekomen, om zonder verzuim het Britsch gezag te proclameren over de Zuid Afrikaansche Republiek.

Besloten: Dat nademaal H.B. Majesteits Regering bij de Conventie van Zandrivier in 1852, plegtig de onafhankelijkheid van het volk ten noorden van de Vaalrivier heeft gewaarborgd, en dat nademaal de Regering van de Zuid Afrikaansche Republiek zich niet bewust is ooit eenige reden tot eene vijandige handeling te hebben gegeven aan H. Majesteits Regering, noch ooit eenigen grond voor zulk een daad van onverwijld geweld; dat, nademaal deze Regering zich steeds

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the general security, order and peace of South Africa with regard to the natives.

No. 197. GOVERNMENT NOTICE.

For general information the following resolution of the Executive Council, dated 11th April 1877, art. 7, is published herewith.

THOS. BURGERS, *State President.*

GOVERNMENT OFFICE,
PRETORIA, 11*th April* 1877.

GOVERNMENT OFFICE, S.A. REPUBLIC,
PRETORIA, 11*th April* 1877.

On the agenda:

A letter from Her Britannic Majesty's Special Commissioner, dated 9 April 1877, notifying that His Excellency has decided to proclaim British authority over the South African Republic without delay.

Decided: That whereas H.B. Majesty's Government at the Sand River Convention of 1852 has solemnly guaranteed the independence of the nation to the north of the Vaal River, and whereas the Government of the South African Republic is not aware that it has ever given to H. Majesty's Government any cause for a hostile act or any ground for such an act of

bereid heeft getoond en nog bereid is alles te doen wat van haar met regt en billijkheid kan gevorderd worden, tevens alle oorzaken van ontevredenheid die er mogen bestaan uit den weg te ruimen; aangezien tevens zij bij herhaling zich volkomen bereid heeft verklaard om met H.M. Regering zoodanige tractaten te sluiten of verbindtenissen aan te gaan als noodig moge geoordeeld worden voor de algemeene beveiliging van de blanke bevolking van Zuid Afrika, en gewillig is zoodanige verbindtenissen stiptelijk na te komen; aangezien dat volgens publieke verklaringen van H.M. Minister van Kolonien, Lord Carnarvon, er geene begeerte bestaat bij de Britsche Regering om het volk der Zuid Afrikaansche Republiek tegen zijn zin onder haar gezag te dwingen; en nademaal het volk, hetzij door memoriën of anderzins, bij groote meerderheid duidelijk heeft te kennen gegeven, er niet toe genegen te zijn; en nademaal de Regering overtuigd is niet in staat te zijn tegenover de overmagt van Groot Britannie de regten en onafhankelijkheid des volks met het zwaard te handhaven, en bovendien in geenen deele een stap wenscht te nemen, waardoor de blanke inwoners van Zuid Afrika in het aangezigt van den gemeenschappelijken vijand tegenover elkander zouden worden verdeeld of in vijandelijke aanraking met elkander komen, tot groot onheil van de gansche Christelijke bevolking van Zuid Afrika, vóór dat allereerst tot het laatste middel toe is beproefd om langs vreedzamen weg en vriendschappelijke bemiddeling de regten des volks te verzekeren—zoo protesteert de Regering ten sterkste tegen deze handelwijze van H.M. Specialen Commissaris en besluit

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uncompromising violence; and whereas this Government has always shown itself willing and is still willing to do everything that can in justice and equity be demanded of them, and to remove all causes of dissatisfaction that may exist; considering also that they have repeatedly declared themselves fully prepared to enter into such treaties or agreements with H.M.'s Government as may be deemed necessary for the general security of the white population of South Africa, and as they are willing to observe strictly such agreements; considering that according to public declarations of H.M.'s Minister of Colonies, Lord Carnarvon, there exists on the part of the British Government no desire to force the people of the South African Republic under its authority against their will; and whereas the people have by petitions as well as in other ways clearly indicated that they are not so inclined; and whereas the Government is convinced that it is not able to maintain with the sword the rights and the independence of the people against the superior power of Great Britain, and moreover by no means wishes to take a step by which the white inhabitants of South Africa would be divided against each other in the face of the common enemy, or would come into hostile contact with one another, greatly to the detriment of the whole Christian population of South Africa, before having first attempted to assure the rights of the people in a peaceful manner and by friendly mediation,—

Therefore the Government most strongly protests against this action of H.M.'s Special Commissioner, and decides further

tevens eene commissie van afgevaardigden onverwijld naar Europa en Amerika te zenden, met volmagt en instructie om, des vereischt, een derden persoon bij zich te voegen, ten einde te beproeven aldaar in de eerste plaats de belangen en wenschen des volks voor H.M. Regering te leggen; en zoo dit geen gewenscht gevolg moge hebben, hetgeen de Regering diep zou betreuren, en alsnog niet kan gelooven, dan te trachten de vriendschappelijke hulp en bemiddeling van andere mogendheden in te roepen, en allereerst van die, welke de onafhankelijkheid van dezen Staat hebben erkend. Tot leden van die commissie worden benoemd, de WelEd. Gestr. heeren Dr. E. J. P. Jorissen, Staatsprocureur, en S. J. P. Kruger, Vice-President van de Zuid Afrikaansche Republiek.

Locale Wetten der Z.A. Rep. I. 698.

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immediately to send a commission of delegates to Europe and America, empowered and instructed to add a third person to their number should this seem necessary, in order first of all to attempt to lay the interests and the wishes of the people before H.M.'s Government, and should this not have the desired effect,—which would deeply grieve the Government, and which as yet they can not believe will happen,—then to try to call in the friendly assistance and mediation of other Powers, beginning with those who have acknowledged the independence of this State. As members of that commission are appointed Dr. E. J. P. Jorissen, the State Attorney, and S. J. P. Kruger, Vice-President of the South African Republic.

No. 198. ANNEXATION OF THE S.A. REPUBLIC TO THE BRITISH EMPIRE. [12 April 1877.]

Proclamation.—By His Excellency Sir THEOPHILUS SHEPSTONE, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Her Majesty's Special Commissioner for certain purposes in South Africa.

WHEREAS at a meeting held on the sixteenth day of January, in the year of our Lord one thousand eight hundred and fifty-two, at the Sand River, between Her Majesty's Assistant Commissioners, Major Hogge and C. M. Owen, Esq., on the one part, and a deputation from the emigrant farmers then residing north of the Vaal River, at the head of which was Commandant-General A. W. J. Pretorius, on the other part, the said Her Majesty's Assistant Commissioners did "guarantee in the fullest manner on the part of the British Government to the emigrant farmers north of the Vaal River the right to manage their own affairs, and to govern themselves according to their own laws, without any interference on the part of the British Government":

And whereas the evident objects and inciting motives of the Assistant Commissioners in granting such guarantee or permission to persons who were Her Majesty's subjects, were "to promote peace, free trade and friendly intercourse" with and among the inhabitants of the Transvaal, in the hope and belief that the territory which a few years afterwards, namely, in February 1858, became known by the style and title of "The South African Republic," would become a flourishing and self-sustaining State, a source of strength and security to neighbouring European communities, and a point from which Christianity and civilisation might rapidly spread towards Central Africa:

And whereas the hopes and expectations upon which this mutual compact was reasonably and honourably founded have been disappointed, and the circumstances as set forth more at length in my Address to the people, of to-day's date, hereunto attached,[1] show that increasing weakness in the State itself on the one side and more than corresponding growth of real strength and confidence among the native tribes on the other, have produced their natural and inevitable consequences, as will more fully appear from a brief allusion to the facts that, after more or less of irritating contact with aboriginal tribes to the north, there commenced about the year 1867 gradual abandonment to the natives in that direction of territory settled by burghers of this State, in well-built towns and villages, and on granted farms; that this was succeeded by the extinction of all effective rule over extensive tracts of country included within the boundaries of the State, and as a consequence of the practical independence, which still continues, of large native tribes residing therein who had until then considered themselves subjects:

That some few farmers, unwilling to forfeit homes which they had created for their families, and to which they held grants from the Government of the Transvaal, which grant had, however, ceased, and still fail to protect them in their occupation, made terms with the native chiefs, and now occupy their farms on conditions of periodical payments to those chiefs, notwithstanding the acknowledgment which such payments involve:

That this decay of power and ebb of authority in the north is being followed by similar processes in the south under yet more dangerous circumstances, people of this State residing in that direction having been compelled within the last three months at the bidding of native chiefs, and at a moment's notice, to leave their farms and homes, their standing crops, some of which were ready for reaping, and other property,

[1] Attempts to find this Address have not been successful.

all to be taken possession of by natives, but that the Government is more powerless than ever to vindicate its assumed rights, or to resist the declension that is threatening its existence. That all confidence in its stability once felt by surrounding and distant European communities has been withdrawn. That commerce is well-nigh destroyed. That the country is in a state of bankruptcy. That the white inhabitants, discontented with their condition, are divided into factions. That the Government has fallen into helpless paralysis from causes which it has been and is unable to control or counteract. And that the prospect of the election of a new President, so far from allaying the general anxiety, or from inspiring hope in the future, is looked forward to by all parties as most likely to result in civil war, with its attendant anarchy and bloodshed.

That the condition above described affords strong temptation to neighbouring native powers, who are known to be anxious and ready to do so, to make attacks and inroads upon the state, which from its weakness it cannot repel, and from which it has hitherto been saved by the restraining influence of the British Government, exercised from Natal by Her Majesty's representative in that colony, in the hope, yet unfulfilled, that a friendly understanding might be arrived at between the Government of the Transvaal and the complaining native chiefs :

That the Sicocoeni war, which would have produced but little effect upon a healthy constitution, has not only proved suddenly fatal to the resources and reputation of the Republic, but has shown itself to be a culminating point in the history of South Africa, in that a Makatee or Basuto tribe, unwarlike, and of no account in Zulu estimation, successfully withstood the strength of the state, and disclosed for the first time to the native tribes outside the Republic, from the Zambesi to the Cape, the great change that had taken place in the relative strength of the white and the black races. That this disclosure at once shook the prestige of the white man in South Africa, and placed every European community in peril. That this common danger has caused universal anxiety, has given to all concerned the right to investigate its causes, and to protect themselves from its consequences, and has imposed the duty upon those who have the power to shield enfeebled civilisation from the encroachments of barbarism and inhumanity :

And whereas the inherent weakness of this Government and state, from causes above alluded to, and briefly set forth, and the fact that the past policy of the Republic has not only failed to conciliate the friendship and goodwill, but has forfeited the respect of the overwhelming native populations

within and beyond its boundaries, which together probably exceed one and a half million, render it certain that the Transvaal will be the first to suffer from the consequences of a pressure that has already reduced its political life to so feeble a condition:

And whereas the ravaging of an adjoining friendly state by warlike savage tribes cannot for a moment be contemplated by Her Majesty's Government without the most earnest and painful solicitude, both on account of the miseries which such an event must inflict upon the inhabitants of the Transvaal, and because of the peril and insecurity to which it would expose Her Majesty's possessions and subjects in South Africa, and seeing that the circumstances of the case have, from the inherent weakness of the country already touched upon, become so grave that neither this country nor the British colonies in South Africa can be saved from the most calamitous circumstances except by the extension over this state of Her Majesty's authority and protection, by means of which alone oneness of purpose and action can be secured, and a fair prospect of peace and prosperity in the future be established:

And whereas I have been satisfied by numerous addresses, memorials, and letters which I have received, and by the abundant assurances which personal intercourse has given me, that a large proportion of the inhabitants of the Transvaal see in a clearer and stronger light than I am able to describe them, the urgency and imminence of the circumstances by which they are surrounded, the ruined condition of the country, and the absence within it of any element capable of rescuing it from its depressed and afflicted state, and therefore earnestly desire the establishment within and over it of Her Majesty's authority and rule; and whereas the Government has been unable to point out or devise any means by which the country can save itself, and as a consequence relieve the other white communities of South Africa from the danger of the dire events, certain speedily to result from the circumstances by which it is surrounded, and can entertain no reasonable hope that it possesses, or is likely under its present form of government to possess, the means to raise itself to a safe and prosperous condition:

And whereas the emergency seems to me to be such as to render it necessary, in order to secure the peace and safety of the Transvaal territory as well as the peace and safety of Her Majesty's Colonies and of Her Majesty's subjects elsewhere, that the said Transvaal territory should provisionally, and pending the announcement of Her Majesty's pleasure, be administered in Her Majesty's name and on her behalf:

Now, therefore, I do in virtue of the power and authority

conferred upon me by Her Majesty's Royal Commission, dated at Balmoral, the fifth day of October 1876, and published herewith, and in accordance with instructions conveyed to me thereby and otherwise, proclaim and make known that from and after the publication hereof the territory heretofore known as the South African Republic, as now measured and bounded, subject, however, to such local modifications as may hereafter appear necessary, and as may be approved of by Her Majesty, shall be and shall be taken to be British territory; and I hereby call upon and require the inhabitants of the Transvaal, of every class and degree, and all Her Majesty's subjects in South Africa, to take notice of this my Proclamation and to guide themselves accordingly:

And I hereby further proclaim and declare that I shall hold responsible all such persons who in the Transvaal shall venture opposition, armed or otherwise, to Her Majesty's authority hereby proclaimed, or who shall by seditious and inflammatory language or exhortations or otherwise incite or encourage others to offer such opposition, or who shall injure, harass, disturb, or molest others because they may not think with them on political matters; and I do warn all such that upon conviction of any of the above offences they will be liable to the severe penalties which the law in such cases ordains; and I hereby appeal to and call upon the orderly, right-thinking, and peace-loving people of the Transvaal to be aiding and supporting Her Majesty's authority:

And I proclaim further that all legal courts of justice now in existence for the trial of criminal or civil cases or questions are hereby continued and kept in full force and effect, and that all decrees, judgments and sentences, rules and orders lawfully made or issued, or to be made and issued by such courts shall be as good and valid as if this Proclamation had not been published; all civil obligations, all suits and actions, civil, penal, criminal, or mixed, and all criminal acts here committed which may have been incurred, commenced, done, or committed before the publication of this Proclamation, but which are not fully tried and determined, may be tried and determined by any such lawful courts or by such others as it may be found hereafter necessary to establish for that purpose:

And I further proclaim and make known that the Transvaal will remain a separate Government, with its own laws and legislature, and that it is the wish of Her Most Gracious Majesty that it shall enjoy the fullest legislative privileges compatible with the circumstances of the country and the intelligence of its people. That arrangements will be made by which the Dutch language will practically be as much the

official language as the English; all laws, proclamations, and Government notices will be published in the Dutch language; in the Legislative Assembly members may, as they do now, use either language; and in the courts of law the same may be done at the option of suitors to a cause. The laws now in force in the state will be retained until altered by competent legislative authority.

Equal justice is guaranteed to the persons and property of both white and coloured; but the adoption of this principle does not and should not involve the granting of equal civil rights, such as the exercise of the right of voting by savages, or their becoming members of a Legislative Body, or their being entitled to other civil privileges which are incompatible with their uncivilised condition.

The native tribes living within the jurisdiction and under the protection of the Government must be taught due obedience to the paramount authority, and be made to contribute their fair share towards the support of the state that protects them.

All private *bona fide* rights to property, guaranteed by the existing laws of the country and sanctioned by them, will be respected.

All officers now serving the Government, and who may be able and willing to serve under the altered circumstances of the country, shall be entitled to retain their positions, and such rights as their positions now give them.

All *bona fide* concessions and contracts with Governments, companies, or individuals, by which the state is now bound, will be honourably maintained and respected, and the payment of the debts of the state must be provided for.

The appointments of licenses, in virtue of which attorneys, land surveyors, and others are entitled to practise their callings, shall be respected in accordance with the terms and conditions of such appointments or licenses.

GOD SAVE THE QUEEN.

Given under my hand and seal at Pretoria, in the South African Republic, this twelfth day of April in the year of our Lord one thousand eight hundred and seventy-seven.

T. SHEPSTONE, *Her Majesty's Special Commissioner.*

By command of His Excellency,

M. OSBORN, *Secretary.*

S. W. Silver & Co.'s *Transvaal* (London, 1878).

No. 199. PROCLAMATIE. [12 April 1877.]

NADEMAAL Harer Britsche Majesteits Speciale Commissaris, Sir Theophilus Shepstone, in weerwil van mijn plegtig protest op gisteren gelegd tegen Zijner Excellenties voornemen, mij per missieve dd. 9 April, medegedeeld, goed heeft gedacht dat voornemen uit te voeren en heden het gezag van Harer Britsche Majesteits Regering heeft geproclameerd over de Zuid-Afrikaansche Republiek.

En nademaal de Regering besloten heeft voorlopig onder protest te berusten, ten einde intusschen een gezantschap naar Europa en Amerika te zenden, in de personen van de WelEd. heeren S. J. P. Kruger en E. J. P. Jorissen, ten einde daar de regten des volks te verdedigen en te trachten langs vreedzamen weg de zaak op te lossen.

Zoo is het dat ik, Thomas François Burgers, Staatspresident der Z.A. Republiek, bij dezen uit naam en op advies van den Uitv. Raad alle ambtenaren, burgers en ingezetenen gelast om zich te onthouden van eenig woord of eenige daad van geweld waardoor de zending vruchteloos zou kunnen gemaakt worden. En ik vermaan alle burgers en ingezetenen het besluit der Regering te helpen handhaven en bij te staan tot de bewaring van orde en het voorkomen van bloedvergieten.

THOS. BURGERS, *Staatspresident.*

Locale Wetten der Z.A. Rep. I. 699.

No. 199. PROCLAMATION. [12 April 1877.]

WHEREAS Her Britannic Majesty's Special Commissioner, Sir Theophilus Shepstone, in spite of my solemn protest made yesterday against His Excellency's intention communicated to me by letter dated 9th April, has thought fit to carry out that intention and has this day proclaimed the authority of Her Britannic Majesty's Government over the South African Republic;

And whereas the Government has decided to submit for the present under protest, in order to send a mission to Europe and America consisting of Messrs. S. J. P. Kruger and E. J. P. Jorissen to defend there the rights of the people and try to settle the matter in a peaceful manner;

Now therefore, I, Thomas François Burgers, State President of the S.A. Republic, in the name and by the advice of the Executive Council, command all officials, burghers and inhabitants to refrain from any word or deed of violence whereby the mission could be rendered futile. And I admonish all burghers and inhabitants to aid in carrying out the resolution of the Government and to assist in preserving order and preventing bloodshed.

No. 200. THE CONVENTION OF PRETORIA.

[3 Aug. 1881.]

Convention [1] for the Settlement of the Transvaal Territory.

Her Majesty's Commissioners for the settlement of the Transvaal territory, duly appointed as such by a Commission passed under the Royal Sign Manual and Signet, bearing date the 5th of April 1881, do hereby undertake and guarantee, on behalf of Her Majesty, that from and after the 8th day of August 1881, complete self-government, subject to the suzerainty of Her Majesty, her heirs and successors, will be accorded to the inhabitants of the Transvaal territory, upon the following terms and conditions, and subject to the following reservations and limitations:

ARTICLE I. The said territory, to be hereinafter called the Transvaal State, will embrace the land lying between the following boundaries, to wit: [Boundaries given here.]

II. Her Majesty reserves to herself, her heirs and successors, (*a*) the right from time to time to appoint a British Resident in and for the said State, with such duties and functions as are hereinafter defined; (*b*) the right to move troops through the said State in time of war, or in case of the apprehension of immediate war between the Suzerain Power and any foreign State, or Native tribe in South Africa; and (*c*) the control of the external relations of the said State, including the conclusion of treaties, and the conduct of diplomatic intercourse with foreign powers, such intercourse to be carried on through Her Majesty's diplomatic and consular officers abroad.

III. Until altered by the Volksraad or other competent authority, all laws, whether passed before or after the annexation of the Transvaal territory to Her Majesty's dominions, shall, except in so far as they are inconsistent with, or repugnant to, the provisions of this Convention, be and remain in force in the said State, in so far as they shall be applicable thereto: Provided that no future enactment specially affecting the interests of natives shall have any force or effect in the said State without the consent of Her Majesty, her heirs and successors, first had and obtained and signified to the Government of the said State through the British Resident: Provided further, that in no case will the repeal or amendment of any laws which have been enacted since the annexation have a retrospective effect so as to invalidate any acts done or liabilities incurred by virtue of such laws.

IV. On the 8th day of August 1881, the Government of the said State, together with all rights and obligations thereto

[1] Superseded by the London Convention, 27 Feb. 1884.

appertaining, and all State property taken over at the time of annexation, save and except munitions of war, will be handed over to Messrs.

Stephanus Johannes Paulus Kruger,
Martinus Wessel Pretorius, and
Petrus Jacobus Joubert,

or the survivor or survivors of them, who will forthwith cause a Volksraad to be elected and convened; and the Volksraad thus elected and convened will decide as to the further administration of the Government of the said State.

V. All sentences passed upon persons who may be convicted of offences contrary to the rules of civilised warfare, committed during the recent hostilities, will be duly carried out, and no alteration or mitigation of such sentences will be made or allowed by the Government of the Transvaal State without Her Majesty's consent, conveyed through the British Resident. In case there shall be any prisoners in any of the gaols of the Transvaal State, whose respective sentences of imprisonment have been remitted in part by Her Majesty's Administrator, or other officer administering the Government, such remission will be recognised and acted upon by the future Government of the said State.

VI. Her Majesty's Government will make due compensation for all losses or damage sustained by reason of such acts as are in the 8th Article hereinafter specified, which may have been committed by Her Majesty's forces during the recent hostilities, except for such losses or damage as may already have been compensated for, and the Government of the Transvaal State will make due compensation for all losses or damage sustained by reason of such acts as are in the 8th Article hereinafter specified, which may have been committed by the people who were in arms against Her Majesty during the recent hostilities, except for such losses or damage as may already have been compensated for.

VII. The decision of all claims for compensation, as in the last preceding article mentioned, will be referred to a Sub-Commission, consisting of the Honourable George Hudson, the Honourable Jacobus Petrus de Wet, and the Honourable John Gilbert Kotzé.

In case one or more of such Sub-Commissioners shall be unable or unwilling to act, the remaining Sub-Commissioner or Sub-Commissioners will, after consultation with the Government of the Transvaal State, submit for the approval of Her Majesty's High Commissioner, the names of one or more persons to be appointed by him, to fill the place or places thus vacated.

The decision of the said Sub-Commissioners, or of a majority of them, will be final.

The said Sub-Commissioners will enter upon and perform their duties with all convenient speed. They will, before taking evidence, or ordering evidence to be taken, in respect of any claim, decide whether such claim can be entertained at all under the rules laid down in the next succeeding article.

In regard to claims which can be so entertained, the Sub-Commissioners will, in the first instance, afford every facility for an amicable arrangement as to the amount payable in respect of any claim, and only in cases in which there is no reasonable ground for believing that an immediate amicable arrangement can be arrived at, will they take evidence, or order evidence to be taken.

For the purpose of taking evidence and reporting thereon, the Sub-Commissioners may appoint deputies, who will without delay submit records of the evidence and their reports to the Sub-Commissioners.

The Sub-Commissioners will arrange their sittings, and the sittings of their deputies, in such a manner as to afford the greatest convenience to the parties concerned and their witnesses. In no case will costs be allowed to either side, other than the actual and reasonable expenses of witnesses whose evidence is certified by the Sub-Commissioners to have been necessary. Interest will not run on the amount of any claim except as is hereinafter provided for.

The said Sub-Commissioners will forthwith, after deciding upon any claim, announce their decision to the Government against which the award is made, and to the claimant.

The amount of remuneration payable to the Sub-Commissioners and their deputies will be determined by the High Commissioner after all the claims have been decided upon. The British Government and the Government of the Transvaal State will pay proportionate shares of the said remuneration, and of the expenses of the Sub-Commissioners and their deputies, according to the amounts awarded against them respectively.

VIII. For the purpose of distinguishing claims to be accepted from those to be rejected the Sub-Commissioners will be guided by the following rules, viz. : Compensation will be allowed for losses or damage sustained by reason of the following acts committed during the recent hostilities, viz. : (*a*) commandeering, seizure, confiscation, or destruction of property, or damage done to property ; (*b*) violence done or threats used by persons in arms.

In regard to acts under (*a*), compensation will be allowed for direct losses only.

In regard to acts falling under (*b*), compensation will be allowed for actual losses of property, or actual injury to the same, proved to have been caused by its enforced abandonment.

No claims for indirect losses, except such as are in this article specially provided for, will be entertained.

No claims which have been handed in to the Secretary of the Royal Commission after the 1st day of July 1881, will be entertained, unless the Sub-Commissioners shall be satisfied that the delay was reasonable.

When claims for loss of property are considered, the Sub-Commissioners will require distinct proof of the existence of the property, and that it neither has reverted, nor will revert to the claimant.

IX. The Government of the Transvaal State will pay and satisfy the amount of every claim awarded against it within one month after the Sub-Commissioners shall have notified their decision to the said Government, and in default of such payment the said Government will pay interest at the rate of six per cent. per annum from the date of such default; but Her Majesty's Government may, at any time before such payment, pay the amount, with interest, if any, to the claimant in satisfaction of his claim, and may add the sum thus paid to any debt which may be due by the Transvaal State to Her Majesty's Government, as hereinafter provided for.

X. The Transvaal State will be liable for the balance of the debts for which the South African Republic was liable at the date of annexation, to wit: the sum of 48,000*l.* in respect of the Cape Commercial Bank Loan, and 85,667*l.* in respect of the Railway Loan, together with the amount due on the 8th August 1881, on account of the Orphan Chamber debt, which now stands at 27,226*l.* 15*s.*, which debts will be a first charge upon the revenue of the State. The Transvaal State will moreover be liable for the lawful expenditure lawfully incurred for the necessary expenses of the Province since annexation, to wit, the sum of 265,000*l.*, which debt, together with such debts as may be incurred by virtue of the 9th Article, will be a second charge upon the revenues of the State.

XI. The debts due as aforesaid by the Transvaal State to Her Majesty's Government will bear interest at the rate of three and a half per cent., and any portion of such debt as may remain unpaid on the 8th August 1882, shall be repayable by a payment for interest and Sinking Fund of six pounds and ninepence per 100*l.* per annum, which will extinguish the debt in twenty-five years. The said payment of six pounds and ninepence per 100*l.*, shall be payable half-yearly, in British currency, on the 8th February and 8th August in each year:

Provided always that the Transvaal State shall pay, in reduction of the said debt, the sum of 100,000*l.* before the 8th August 1882, and shall be at liberty at the close of any half-year to pay off the whole or any portion of the outstanding debt.

XII. All persons holding property in the said State on the 8th day of August 1881 will continue to enjoy the rights of property which they have enjoyed since the Annexation. No person who has remained loyal to Her Majesty during the recent hostilities shall suffer any molestation by reason of his loyalty; or be liable to any criminal prosecution or civil action for any part taken in connexion with such hostilities; and all such persons will have full liberty to reside in the country, with enjoyment of all civil rights, and protection for their persons and property.

XIII. Natives will be allowed to acquire land, but the grant or transfer of such land will in every case be made to, and registered in the name of, the Native Location Commission, hereinafter mentioned, in trust for such natives.

XIV. Natives will be allowed to move as freely within the country as may be consistent with the requirements of public order, and to leave it for the purpose of seeking employment elsewhere, or for other lawful purposes, subject always to the Pass Laws of the said State, as amended by the Legislature of the Province, or as may hereafter be enacted under the provisions of the 3rd Article of this Convention.

XV. The Provisions of the 4th Article of the Sand River Convention are hereby re-affirmed, and no slavery or apprenticeship partaking of slavery will be tolerated by the Government of the said State.

XVI. There will continue to be complete freedom of religion and protection from molestation for all denominations, provided the same be not inconsistent with morality and good order; and no disability shall attach to any person in regard to rights of property by reason of the religious opinions which he holds.

XVII. The British Resident will receive from the Government of the Transvaal State such assistance and support as can by law be given to him for the due discharge of his functions. He will also receive every assistance for the proper care and preservation of the graves of such of Her Majesty's Forces as have died in the Transvaal; and if need be, for the expropriation of land for the purpose.

XVIII. The following will be the duties and functions of the British Resident:

(1) He will perform duties and functions analogous to

those discharged by a Chargé d'Affaires and Consul-General.

(2) In regard to Natives within the Transvaal State he will, (*a*) report to the High Commissioner, as representative of the Suzerain, as to the working and observance of the provisions of this Convention; (*b*) report to the Transvaal authorities any cases of ill-treatment of Natives, or attempts to incite Natives to rebellion, that may come to his knowledge; (*c*) use his influence with the Natives in favour of law and order; and (*d*) generally perform such other duties as are by this Convention entrusted to him, and take such steps for the protection of the persons and property of Natives as are consistent with the laws of the land.

(3) In regard to Natives not residing in the Transvaal, (*a*) he will report to the High Commissioner and the Transvaal Government any encroachments reported to him as having been made by Transvaal residents upon the land of such Natives, and in case of disagreement between the Transvaal Government and the British Resident, as to whether an encroachment had been made, the decision of the Suzerain will be final. (*b*) The British Resident will be the medium of communication with Native Chiefs outside the Transvaal, and, subject to the approval of the High Commissioner, as representing the Suzerain, he will control the conclusion of treaties with them, and (*c*) he will arbitrate upon every dispute between Transvaal residents and Natives outside the Transvaal (as to acts committed beyond the boundaries of the Transvaal) which may be referred to him by the parties interested.

(4) In regard to communications with Foreign Powers, the Transvaal Government will correspond with Her Majesty's Government through the British Resident and the High Commissioner.

XIX. [About boundaries.]

XX. All grants or titles issued at any time by the Transvaal Government in respect of land outside the boundary of the Transvaal State, as defined in Article I., shall be considered invalid and of no effect, except in so far as any such grant or title relates to land that falls within the boundary of the Transvaal State; and all persons holding any such grant so considered invalid and of no effect will receive from the

Government of the Transvaal State such compensation, either in land or in money, as the Volksraad shall determine. In all cases in which any Native Chiefs or other authorities outside the said boundaries have received any adequate consideration from the Government of the former South African Republic for land excluded from the Transvaal by the first article of this Convention, or where permanent improvements have been made on the land, the British Resident will, subject to the approval of the High Commissioner, use his influence to recover from the native authorities fair compensation for the loss of the land thus excluded, or of the permanent improvements thereon.

XXI. Forthwith, after the taking effect of this Convention, a Native Location Commission will be constituted, consisting of the President (or in his absence the Vice-President) of the State, or some one deputed by him, the Resident, or some one deputed by him, and a third person to be agreed upon by the President (or the Vice-President, as the case may be) and the Resident ; and such Commission will be a standing body for the performance of the duties hereinafter mentioned.

XXII. The Native Location Commission will reserve to the native tribes of the State such locations as they may be fairly and equitably entitled to, due regard being had to the actual occupation of such tribes. The Native Location Commission will clearly define the boundaries of such locations, and for that purpose will, in every instance, first of all ascertain the wishes of the parties interested in such land. In case land already granted in individual titles shall be required for the purpose of any location, the owners will receive such compensation, either in other land or in money, as the Volksraad shall determine. After the boundaries of any location have been fixed no fresh grant of land within such location will be made, nor will the boundaries be altered without the consent of the Location Commission. No fresh grants of land will be made in the districts of Waterberg, Zoutpansberg, and Lijdenberg, until the locations in the said districts respectively shall have been defined by the said Commission.

XXIII. If not released before the taking effect of this Convention, Sikukuni, and those of his followers who have been imprisoned with him, will be forthwith released, and the boundaries of his location will be defined by the Native Location Commission in the manner indicated in the last preceding Article.

XXIV. The independence of the Swazis, within the boundary line of Swaziland, as indicated in the first Article of this Convention, will be fully recognised.

XXV. No other or higher duties will be imposed on the

importation into the Transvaal State of any article, the produce or manufacture of the dominions and possessions of Her Majesty, from whatever place arriving, than are or may be payable on the like article, the produce or manufacture of any other country, nor will any prohibition be maintained or imposed on the importation of any article, the produce or manufacture of the dominions and possessions of Her Majesty, which shall not equally extend to the importation of the like articles, being the produce or manufacture of any other country.

XXVI. All persons other than Natives conforming themselves to the laws of the Transvaal State (*a*) will have full liberty, with their families, to enter, travel, or reside in any part of the Transvaal State; (*b*) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (*c*) they may carry on their commerce either in person or by any agents whom they may think fit to employ; (*d*) they will not be subject, in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon Transvaal citizens.

XXVII. All inhabitants of the Transvaal shall have free access to the Courts of Justice for the prosecution and defence of their rights.

XXVIII. All persons, other than natives, who established their domicile in the Transvaal between the 12th day of April 1877 and the date when this Convention comes into effect, and who shall, within twelve months after such last-mentioned date, have their names registered by the British Resident, shall be exempt from all compulsory military service whatever. The Resident shall notify such registration to the Government of the Transvaal State.

XXIX. Provision shall hereafter be made by a separate instrument for the mutual extradition of criminals, and also for the surrender of deserters from Her Majesty's Forces.

XXX. All debts contracted since the Annexation will be payable in the same currency in which they may have been contracted.

All uncancelled postage and other revenue stamps issued by the Government since the Annexation will remain valid, and will be accepted at their present value by the future Government of the State. All licenses duly issued since the Annexation will remain in force during the period for which they may have been issued.

XXXI. No grants of land which may have been made, and no transfers or mortgages which may have been passed since the date of Annexation, will be invalidated by reason merely of their having been made or passed after such date.

All transfers to the British Secretary for Native Affairs in trust for Natives will remain in force, the Native Location Commission taking the place of such Secretary for Native Affairs.

XXXII. This Convention will be ratified by a newly elected Volksraad within the period of three months after its execution, and in default of such ratification this Convention shall be null and void.

XXXIII. Forthwith after the ratification of this Convention, as in the last preceding article mentioned, all British troops in Transvaal Territory will leave the same, and the mutual delivery of munitions of war will be carried out.

Signed at Pretoria this 3rd day of August 1881.

(Signed) HERCULES ROBINSON,
President and High Commissioner.
EVELYN WOOD, *Major-General,*
Officer Administering the Government.
J. H. DE VILLIERS.

We, the undersigned . . . representatives of the Transvaal Burghers, do hereby agree to all the above conditions, reservations, and limitations, under which self-government has been restored to the inhabitants of the Transvaal Territory, subject to the suzerainty of Her Majesty, Her Heirs and Successors, and we agree to accept the Government of the said Territory, with all rights and obligations thereto appertaining, on the 8th day of August 1881, and we promise and undertake that this Convention shall be ratified by a newly-elected Volksraad of the Transvaal State within three months from this date.

Signed at Pretoria, this 3rd day of August 1881.

(Signed) S. J. P. KRUGER.
M. W. PRETORIUS.
P. J. JOUBERT.

Parl. Papers, Ret. to an address of the House of Lords, dated 15 June 1883 (42), p. 111.

No. 201. PROCLAMATIE. [8 Aug. 1881.]

Aan De Burgers!

Op heden den 8sten Augustus 1881 is het land weder onder onze Regeering teruggekeerd.

Dit is gebeurd na het teekenen eener Conventie op den 3 den Augustus 1881 tusschen de Vertegenwoordigers der Koninklijke Com-

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No. 201. PROCLAMATION. [8 Aug. 1881.]

To the Burghers!

On this 8th day of August 1881 the country has once more come back under our Government.

This has taken place on the signing of a Convention on the 3rd August 1881 between the representatives of the Royal

missie en de leden van het Driemanschap, welke Conventie aan den Volksraad ter bekrachtiging voorgelegd en publiek zal gemaakt worden.

Met de grootste dankbaarheid aan onzen God deelen wij dit aan alle ingezetenen mede.

Nu is het voor allen den tijd om de kracht van ons land te toonen, en door Eendracht Macht te maken.

Wij danken alle Burgers voor hunnen ijver en gehoorzaamheid en vertrouwen nu ook, dat zij zonder verzuim onze handen sterk zullen maken.

Wij verwachten dat alle ingetenen hunne belastingen dadelijk zullen betalen, om ons land te kunnen besturen.

Aan alle ingezetenen zonder eenig onderscheid belooven wij de bescherming der Wet, en al de voorrechten daaraan verbonden.

Ingezetenen die geen Burgers zijn en het ook niet willen worden deelen wij mede, dat zij het recht hebben om zich bij den Resident aan te geven als Britsche onderdanen, volgens art. 28 der nu vastgestelde Conventie. Maar ieder wete, dat voor alle ingezetenen, Burger of niet, alle de gewone rechten van eigendom, handel en verkeer dezelfde zijn.

Wij herhalen plechtig, onze leuze is EENDRACHT en VERZOENING onze Vrijheid is Orde en Wet.

S. J. P. KRUGER, *Vice-President.*
M. W. PRETORIUS,
P. J. JOUBERT,
Leden van het Driemanschap,

W. EDUARD BOK, *Staatssecretaris.*

Locale Wetten der Z.A. Rep. I. 1010.

Commission and the members of the Triumvirate, which Convention will be submitted to the Volksraad for endorsement and will be published.

With the deepest gratitude to our God we announce this to all the inhabitants.

Now is the time for all to show the strength of our country and to attain to Strength through Unity.

We thank all Burghers for their zeal and their obedience, and now we trust, too, that they will strengthen our hands without delay.

We expect that all the inhabitants shall pay their taxes immediately in order to be able to govern our country.

To all the inhabitants without exception we promise the protection of the Law and all the privileges connected therewith.

We inform the inhabitants who are not Burghers and do not wish to become such, that they are at liberty to give in their names to the Resident as British subjects, according to Art. 28 of the Convention now concluded. But let all men know that for all inhabitants, whether they be Burghers or not, all the ordinary rights of property, trade, and traffic are the same.

We solemnly repeat: our motto is UNITY and RECONCILIATION, our Freedom is Order and Law.

No. 202. OP DE DISTRICTSRADEN. [14 Junij 1883.]

WET No. 6, 1883.[1]

(Goedgekeurd en vastgesteld bij besluit van den HEd. Achtb. Volksraad dd. 12 Junij 1883, art. 278.)

Tot uitvoering van artt. 11–13 van Wet No. 3, 1881 (Bijlage van de Grondwet).

En met herroeping der Wet No. 19, 1880,[2] wordt vastgesteld :

ART. 1. In ieder district bestaat een Districtsraad uit zooveel leden als er Veldcornetschappen zijn in het district.

2. De Landdrost is Voorzitter en lid van den Districtsraad. Als eerste Secretaris zal de Districtsraad een der klerken van het Landdrostkantoor kunnen benoemen, tegen een bepaald salaris.

3. Om te kiezen of gehozen te worden moet men aan de vereischten der algemeene kieswet [3] voldoen, niet in staat van faillissement verkeeren, en vast goed bezitten in het district op eigen naam, of huurder van vast goed zijn van een som van minstens £50 per jaar en in het district woonachtig zijn.

4. Niemand die aannemer is onder eenig contract met den Districtsraad, zal bevoegd zijn om gekozen te worden tot lid daarvan.

De Veldcornetten kunnen geen leden van den Districtsraad zijn.

No. 202. FOR THE DISTRICT COUNCILS. [14 June 1883.]

LAW No. 6, 1883.[1]

(Sanctioned and confirmed by resolution of the Volksraad, dated 12 June 1883, art. 278.)

To provide for carrying out arts. 11–13 of Law No. 3, 1881 (Addendum to the Grondwet).

And with the repeal of Law No. 19, 1880,[2] it is enacted :

ART. 1. In each district there shall be a District Council of so many members as there are Field-cornetcies in the district.

2. The Landdrost shall be Chairman and member of the District Council. As first Secretary the District Council shall be at liberty to appoint one of the clerks of the Landdrost's Office at a fixed salary.

3. To be an elector or to be elected one must conform to the demands of the general election law,[3] must not be in a state of bankruptcy, and must possess in his own name immovable property in the district, or be a renter of immovable property to the sum of at least £50 per year and must reside in the district.

4. No person who is a party to any contract with the District Council shall be eligible as a member of the same.

The Field-cornets can not be members of the District Council.

[1] Repealed by Procl. No. 34 of 1901.

[2] Entitled " For the Establishment of District Councils in this Province."

[3] Law No. 7, 1882, the provisions of which modified those of Law No. 1, 1876, which see.

5. De leden hebben zitting voor drie jaren.

6. De eerste Districtsraad onder deze Wet gekozen, zal in werking blijven tot den laatsten dag van December 1886, en zal dan aftreden en eene nieuwe electie van leden plaats hebben zoo als later zal worden bepaald.

7. De verkiezing heeft in ieder Veldcornetschap plaats, op tijd en wijze als bij afzonderlijke proclamatie, nader door den Staatspresident zal worden bepaald.

8. De lijsten der burgers door de Veldcornetten gehouden, liggen ten grondslag voor de verkiezing.

9. Klagten tegen de verkiezing of gehouden stemming worden binnen 14 dagen na de publicatie van den uitslag der verkiezing schriftelijk ingezonden bij den Landdrost van het district.

10. De Landdrost met de Veldcornetten van het district vormen het Hof, dat binnen 14 dagen na den termijn in art. 9 genoemd, deze klagten, in tegenwoordigheid der partijen en in open Hof, onderzoekt en beslist.

11. Van den uitspraak is appèl bij den Uitvoerenden Raad. Wanneer het bij uitspraak van den Uitv. Raad blijkt dat de klagten ongegrond zijn geweest, moet de appellant de onkosten door zijn tegenpartij gemaakt, betalen.

12. De taak van den Districtsraad is het onderhouden en het toezigt op het onderhoud van alle publieke wegen in het district: de verbetering daarvan, de bevordering der openbare communicatie door den aanleg van bruggen.

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5. The members have session for three years.

6. The first District Council elected under this Law shall remain in operation till the last day of December 1886, and shall then leave office, and a fresh election of members shall take place, as shall be laid down at a later date.

7. The election shall take place in each Field-cornetcy at such time and place as shall be more definitely fixed by the State President in a separate proclamation.

8. The lists of burghers kept by the Field-cornets shall form the basis for the election.

9. Complaints against the election or the voting performed shall be sent in, in writing, to the Landdrost of the district within 14 days after the publication of the result of the election.

10. The Landdrost with the Field-cornets of the district shall constitute a Court which shall, within 14 days after the period mentioned in art. 9, examine and decide on these complaints in the presence of the parties and in open Court.

11. From the judgment there shall be an appeal to the Executive Council. When it shall appear from the decision of the Executive Council that the complaints are groundless, the appellant shall pay the expenses incurred by his opponent.

12. The task of the District Council is to maintain in good order, and cause to be maintained, all public roads in the district: the improvement thereof and the advancement of public communication by laying down bridges.

13. Tot dekking der onkosten daarvan stelt het Rijk[1] aan het District beschikbaar het weggeld dat volgens de wet door de ingezetenen van het district wordt betaald.

14. Indien deze gelden niet voldoende zijn, kan de Districtsraad een bijzondere belasting heffen, na vooraf daarop de goedkeuring van den Volksraad verkregen te hebben.[2]

15. Jaarlijks wordt de begrooting van ontvangst en uitgaaf vóór de vaststelling door den Districtsraad aan de Regering toegezonden, ten einde deze in staat te stellen om te beoordeelen of zij iets bevat in strijd met de algemeene of met deze wet. In dit geval onthoudt de Regering hare goedkeuring.

16. Alleen een goedgekeurde en gepubliceerde begrooting geeft regt om uitgaven te doen en inkomsten te heffen.

17. Het in art. 13 genoemde weggeld blijft betaalbaar bij den Landdrost, en wordt door dezen bij den Thesaurier gestort.

De Regering doet, op aanvraag van den Districtsraad, zulke uitbetalingen daaruit aan den Districtsraad als noodig zijn voor de finantiëele administratie van het district.

18. De rekening van inkomsten en uitgaven wordt ook jaarlijks, vóór de vaststelling aan de Regering toegezonden, met hetzelfde doel

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13. For defraying the expenses thereof the Empire[1] shall place at the disposal of the District the road-money which is paid by the inhabitants of the district according to law.

14. If these funds shall not be sufficient, the District Council shall be at liberty to raise a special tax after having first obtained the approval of the Volksraad thereon.[2]

15. The estimates of receipts and expenditure shall be sent annually by the District Council to the Government before they shall be passed, in order that the Government may be able to judge whether they contain anything in conflict with the general law or with this law. In that case the Government shall withhold its sanction.

16. Only the estimates that are approved of and published shall give the right to spend money and collect the revenue.

17. The road-money mentioned in art. 13 shall continue to be payable to the Landdrost and shall be paid in by him to the Treasurer.

The Government, on the request of the District Council, shall make therefrom such disbursements to the District Council as shall be necessary for the financial administration of the district.

18. The accounts of revenue and expenditure shall likewise be sent to the Government each year, before the passing thereof, with the same object and the same competency on

[1] Law No. 1, 1887, substituted the words *de Regering* (Government) for *het Rijk* (Empire), which last seems quite meaningless in this law.

[2] Law No. 1, 1887, simply provided that if the funds were insufficient the Volksraad should decide the matter.

en dezelfde bevoegdheid voor de Regering als in art. 15 van de Begrooting is bepaald.

19. Eenmaal per drie maanden houdt de Districtsraad in het dorp waar de Landdrost zijn zetel heeft, een gewone vergadering. Buitengewone vergaderingen zoo dikwijls zulks noodig mogt zijn.

20. De leden hebben regt op vergoeding van reis- en verblijfkosten naar tarief van 1882.

21. Drie [1] leden maken met den Landdrost een *quorum* uit.

22. Deze wet moet herzien worden in de zitting van den Volksraad van 1886, ten einde de nieuwe verkiezing voor 1887 te kunnen regelen.[2]

23. Deze Wet treedt in werking 1 Augustus 1883.

Locale Wetten der Z.A. Rep. I. 1189.

No. 203. GOUVERNEMENTS KENNISGEVING, No. 211.
[1 Oct. 1883.]

Naardien het in eenige kantoren de gewoonte blijkt geworden te zijn dat ambtenaren zich ter bekoming van eenigerlei informatie van welken aard ook, ter eerste instantie wenden tot het Gouvernementskantoor direct, waardoor referenten van dit Bureau naar andere Departementen herhaaldelijk noodzakelijk worden vóór de verlangde inlichtingen kunnen worden verschaft, en het Gouvernementskantoor aldus onnoodig tot een medium wordt gemaakt voor het voeren van

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the part of the Government as is provided for in art. 15 with regard to the Estimates.

19. Once in three months the District Council shall hold an ordinary meeting in the town where the Landdrost is stationed. Special meetings shall be held as often as may be necessary.

20. The members shall have a right to receive payment of their travelling expenses and expenses of living, according to the tariff of 1882.

21. Three [1] members in addition to the Landdrost shall form a quorum.

22. This law shall be revised during the 1886 session of the Volksraad, in order to be able to arrange for the election of 1887.[2]

23. This law shall take effect on 1 August 1883.

No. 203. GOVERNMENT NOTICE, No. 211. [1 Oct. 1883.]

As it appears to have become the custom in some offices for officials to direct their requests for information on all kinds of subjects to the Government Office in the first instance, by which custom it repeatedly becomes necessary for this Office to refer to other Departments before the desired information can be obtained, which makes the Government Office an unnecessary medium for conducting correspondence which

[1] Changed to *two* by Law No. 1, 1887.

[2] In accordance with this provision Law No. 1, 1887, provided for the holding of subsequent elections.

correspondentie die op meer doelmatige wijze en ten einde de afdoening der zaak te bevorderen, kan gevoerd worden met de desbetreffende departementen direct, zoo wordt bij dezen ter algemeene informatie bekend gemaakt dat de Landdrosten in de respective Districten en ook andere beambten, zich hebben te wenden tot het kantoor waar de gewenschte inlichtingen kunnen worden verschaft zonder tusschenkomst van dit Bureau, tenzij zulks om bestaande redenen niet wenschelijk worden geacht of de verlangde inlichtingen niet anders kunnen verkregen worden.

Informatie in zake regtspleging, regts- of wetsquesties zal derhalve moeten ingewonnen worden bij ZEd. Gestr. den Staatsprocureur, in zake Naturellen bij den WelEd. Heer Superintendent van Naturelle Zaken; in krijgszaken bij den Commandant-Generaal; in zake het onderwijs bij den Superintendent van Onderwijs; in zake Rekeningen of 't houden van Boeken en Administratie bij den Auditeur- en Thesaurier-Generaal; in zake Gronden, Grondbrieven, Transporten, Inspecties en dergelijke, bij den Registrateur van Acten of Landmeter-Generaal; in zake het Postwezen bij den Postmeester-Generaal, enz. enz.

Particuliere personen worden vriendelijk verzocht zich eveneens zoveel mogelijk aan dezen regel te houden.

Op last,

W. EDUARD BOK, *Staatssecretaris*,

Locale Wetten der Z.A. Rep. I. 1232.

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can be carried on in a more suitable manner and with a view to securing greater finality by direct consultation with the Departments concerned; therefore it is hereby notified for general information that the Landdrosts in the respective Districts as also other officials are to direct their enquiries to the Office where the desired information can be supplied without the intervention of this Office, unless for existing reasons this is not deemed advisable or the desired information can not be obtained in another way.

Information concerning the administration of justice, legal matters and points of law must therefore be procured from the State Attorney; regarding Natives from the Superintendent of Native Affairs; regarding military matters from the Commandant-General; regarding education from the Superintendent of Education; regarding Accounts or the keeping of Books and Administration from the Auditor and Treasurer-General; regarding Lands, Deeds of Sale of Lands, Transfers, Inspections and such-like, from the Registrar of Deeds or the Surveyor-General; regarding the Postal Service from the Postmaster-General, etc. etc.

Private individuals are also kindly requested to adhere to this rule as far as possible.

No. 204. THE LONDON CONVENTION. [27 Feb. 1884.]

WHEREAS the Government of the Transvaal State, through its delegates, consisting of Stephanus Johannes Paulus Kruger

(President of the said State), and Stephanus Jacobus du Toit (Superintendent of Education), and Nicholas Jacobus Smit (a member of the Volksraad), have represented that the Convention signed at Pretoria on the 3rd day of August 1881, and ratified by the Volksraad of the said State on the 25th October 1881, contains certain provisions which are inconvenient, and imposes burdens and obligations from which the said State is desirous to be relieved, and that the south-western boundaries fixed by the said Convention should be amended, with a view to promote the peace and good order of the said State, and of the countries adjacent thereto; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has been pleased to take the said representations into consideration.

Now, therefore, Her Majesty has been pleased to direct, and it is hereby declared that the following articles of the new Convention, signed on behalf of Her Majesty by Her Majesty's High Commissioner in South Africa, the Right Honourable Sir Hercules George Robert Robinson, . . . Governor of the Colony of the Cape of Good Hope, and on behalf of the Transvaal State (which shall hereinafter be called the South African Republic) by the above-named delegates, . . . shall, when ratified by the Volksraad of the South African Republic, be substituted for the articles embodied in the Convention of 3rd August 1884, which latter, pending such ratification, shall continue in full force and effect.

ARTICLE 1. [Boundaries of the South African Republic given here.]

2. The Government of the South African Republic will strictly adhere to the boundaries defined in the first article of the Convention, and will do its utmost to prevent any of its inhabitants from making any encroachments upon lands beyond the said boundaries. The Government of the South African Republic will appoint Commissioners upon the eastern and western borders whose duty it will be strictly to guard against irregularities and all trespassing over the boundaries. Her Majesty's Government will, if necessary, appoint Commissioners in the native territories outside the eastern and western borders of the South African Republic to maintain order and prevent encroachments.

Her Majesty's Government and the Government of the South African Republic will each appoint a person to proceed together to beacon off the amended south-west boundary as described in article *one* of this Convention; and the President of the Orange Free State shall be requested to appoint a referee to whom the said persons shall refer any questions in which they may disagree respecting the interpretation of the said

article, and the decision of such referee thereon shall be final. The arrangement already made under the terms of article *nineteen* of the Convention of Pretoria of the 3rd August 1881, between the owners of the farms Grootfontein and Valleifontein on the one hand, and the Barolong authorities on the other, by which a fair share of the water supply of the said farms shall be allowed to flow undisturbed to the said Barolongs, shall continue in force.

3. If a British officer is appointed to reside at Pretoria or elsewhere within the South African Republic to discharge functions analogous to those of a Consular Officer he will receive the protection and assistance of the Republic.

4. The South African Republic will conclude no treaty or engagement with any State or nation other than the Orange Free State, nor with any native tribe to the eastward or westward of the Republic until the same has been approved by Her Majesty the Queen.

Such approval shall be considered to have been granted if Her Majesty's Government shall not, within six months after receiving a copy of such treaty (which shall be delivered to them immediately upon its completion), have notified that the conclusion of such treaty is in conflict with the interest of Great Britain or of any of Her Majesty's possessions in South Africa.

5. The South African Republic will be liable for any balance which may still remain due of the debts for which it was liable at the date of annexation, to wit, the Cape Commercial Bank Loan, the Railway Loan, and the Orphan Chamber Debt, which debts will be a first charge upon the revenues of the Republic. The South African Republic will moreover be liable to Her Majesty's Government for £250,000, which will be a second charge upon the revenues of the Republic.

6. The debt due as aforesaid by the South African Republic to Her Majesty's Government will bear interest at the rate of three and a half per cent., from the date of the ratification of this Convention, and shall be repayable by a payment for interest and sinking fund of six pounds and ninepence per £100 per annum, which will extinguish the debt in twenty-five years. The said payment of six pounds and ninepence per £100 shall be payable half-yearly, in British currency, at the close of each half-year from the date of such ratification; provided always that the South African Republic shall be at liberty at the close of any half-year to pay off the whole or any portion of the outstanding debt.

Interest at the rate of three and a half per cent. on the debt as standing under the Convention of Pretoria shall as

heretofore be paid to the date of the ratification of this Convention.

7. All persons who held property in the Transvaal on the 8th day of August 1881, and still hold the same, will continue to enjoy the rights of property which they have enjoyed since the 12th April 1877. No person who has remained loyal to Her Majesty during the late hostilities shall suffer any molestation by reason of his loyalty; or be liable to any criminal prosecution or civil action for any part taken in connection with such hostilities; and all such persons will have full liberty to reside in the country, with enjoyment of all civil rights and protection for their persons and property.

8. The South African Republic renews the declaration made in the Sand River Convention, and in the Convention of Pretoria, that no slavery or apprenticeship partaking of slavery will be tolerated by the Government of the said Republic.

9. There will continue to be complete freedom of religion and protection from molestation for all denominations, provided the same be not inconsistent with morality and good order; and no disability shall attach to any person in regard to rights of property by reason of the religious opinions which he holds.

10. [British Resident to receive assistance in caring for graves of British soldiers.]

11. All grants or titles issued at any time by the Transvaal Government in respect of land outside the boundary of the South African Republic, as defined in article *one*, shall be considered invalid and of no effect, except in so far as any such grant or title relates to land that falls within the boundary of the South African Republic; and all persons holding any such grant so considered invalid and of no effect will receive from the Government of the South African Republic such compensation, either in land or in money, as the Volksraad shall determine. In all cases in which any native chiefs or other authorities outside the said boundaries have received any adequate consideration from the Government of the South African Republic for land excluded from the Transvaal by the first article of this Convention, or where permanent improvements have been made on the land, the High Commissioner will recover from the native authorities fair compensation for the loss of the land thus excluded, or of the permanent improvements thereon.

12. The independence of the Swazies, within the boundary line of Zwaziland, as indicated in the first article of this Convention, will be fully recognised.

13. Except in pursuance of any treaty or engagement

made as provided in article *four* of this Convention, no other or higher duties shall be imposed on the importation into the South African Republic of any article coming from any part of Her Majesty's dominions than are or may be imposed on the like article coming from any other place or country; nor will any prohibition be maintained or imposed on the importation into the South African Republic of any article coming from any part of Her Majesty's dominions which shall not equally extend to the like article coming from any other place or country. And in like manner the same treatment shall be given to any article coming to Great Britain from the South African Republic as to the like article coming from any other place or country.

These provisions do not preclude the consideration of special arrangements as to import duties and commercial relations between the South African Republic and any of Her Majesty's colonies or possessions.

14. All persons, other than natives, conforming themselves to the laws of the South African Republic (*a*) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic; (*b*) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (*c*) they may carry on their commerce either in person or by any agents whom they may think fit to employ; (*d*) they will not be subject, in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.

15. All persons, other than natives, who established their domicile in the Transvaal between the 12th day of April 1877 and the 8th August 1881, and who within twelve months after such last-mentioned date have had their names registered by the British Resident, shall be exempt from all compulsory military service whatever.

16. Provision shall hereafter be made by a separate instrument for the mutual extradition of criminals, and also for the surrender of deserters from Her Majesty's Forces.

17. All debts contracted between the 12th April 1877 and the 8th August 1881 will be payable in the same currency in which they may have been contracted.

18. No grants of land which may have been made, and no transfers or mortgages which may have been passed, between the 12th April 1877 and the 8th August 1881 will be invalidated by reason merely of their having been made or passed between such dates.

All transfers to the British Secretary for Native Affairs in trust for natives will remain in force, an officer of the South

African Republic taking the place of such Secretary for Native Affairs.

19. The Government of the South African Republic will engage faithfully to fulfil the assurances given, in accordance with the laws of the South African Republic, to the natives of the Pretoria Pitso by the Royal Commission in the presence of the Triumvirate and with their entire assent (1) as to the freedom of the natives to buy or otherwise acquire land under certain conditions; (2) as to the appointment of a commission to mark out native locations; (3) as to the access of the natives to the courts of law; and (4) as to their being allowed to move freely within the country or to leave it for any legal purpose under a pass system.

20. This Convention will be ratified by a Volksraad of the South African Republic within the period of six months after its execution,[1] and in default of such ratification this Convention shall be null and void.

Signed in duplicate in London this 27th day of February 1884.

(Signed) HERCULES ROBINSON.
S. J. P. KRUGER.
S. J. DU TOIT.
N. J. SMIT.

Statute Law of the Transvaal, I. 122.

No. 205. VORM VAN LASTBRIEF TOT PERSOONLIJK ARREST.

In naam en van wege de Regeering en het volk der Z.A. Republiek, aan den Hoofdbaljuw of zijnen wettigen plaatsvervanger,

Saluut:

Gij wordt gelast *A. B.*, van de . . . *Straat, in Pretoria, Koopman*, te nemen, zoo hij in deze Republiek worde gevonden en hem in veilige bewaring te houden, zoo dat gij hem voor den Hoofdrechter (en andere de Rechters van het Hoog Gerechtshof) van gezegde Republiek te *Pretoria* hebt op den . . . dag van . . . aanstaande, ten tien ure des voormiddags, ten einde dan en daar te antwoorden op eisch van

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No. 205. FORM OF WARRANT OF ARREST.

In the name and on behalf of the Government and the people of the S.A. Republic, to the Chief Sheriff or his lawful deputy,

Greeting:

You are ordered to fetch *A. B.*, residing in . . . *Street, Pretoria, Merchant*, if he is to be found in this Republic, and to keep him in safe custody, so that you may bring him before the Chief Justice (and the other Judges of the High Court) of the said Republic at *Pretoria* on the . . . day of . . . next, at ten o'clock in the forenoon, in order to answer then and

[1] Ratified by resolution of the Volksraad, dated 8th August 1884, art. 53.

C. D., van . . . waarom hij niet heeft betaald aan gezegde *C. D.*, de som van . . . sterling, wettig geld die hij aan gezegde *C. D.* schuldig is, en hem wederrechtelijk onthoudt (of niet heeft afgeleverd aan gezegden *C. D.* een zeker paard, met zadel, toom, enz., of ander roerend goed, hetwelk de gezegde *A. B.* wederrechtelijk den gezegden *C. D.* onthoudt, of niet aan gezegden *C. D.* zijn schade voldaan heeft door den gezegden *C. D.* geleden, met betrekking tot, enz., vermeldende eenig delict of injurie door den verweerder aangedaan, waar dit het geval moge zijn) zooals voorzegd; en dat gij dan en daar dezen lastbrief hebt met een relaas van alles dat gij daarop gedaan hebt.

Getuige: de WelEd. Achtbare John Gilbert Kotzé, LL.B., Hoofdrechter van gezegde Republiek, te Pretoria, den . . . dag van . . . in het jaar onzes Heeren een duizend acht hondred en . . .

P. J. K., *Griffier van het Hoog Geregtshof.*

E. F.,
No. . . . STRAAT, PRETORIA,
Procureur van klager.

Staatscourant Z.A. Rep. 21 Feb. 1884.

No. 206. VOLKSRAADSBESLUIT, 17 SEPTEMBER 1884.

ART. 490.[1] De Raad vereenigde zich nu eenparig met het concept als onder, en nam het aan als het besluit van den Raad, het

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there the demand of *C. D.*, of . . ., why he has not paid to the said *C. D.* the sum of . . . sterling, lawful money which he is owing to the said *C. D.*, and which he is illegally withholding from him (or why he has not delivered to the said *C. D.* a certain horse, with saddle, bridle, etc., or other movable property, which he, the said *A. B.*, is illegally withholding from the said *C. D.*; or why he has not made good to the said *C. D.* the loss sustained by him, the said *C. D.*, in the matter of, etc., specifying any damage or loss caused by the defendant, wherever such may have occurred) as aforesaid; and then and there you shall have with you this warrant together with an account of everything that you have done in obedience to it.

Witness: the Rt. Hon. John Gilbert Kotzé, LL.B., Chief Justice of the said Republic, at Pretoria, the . . . day of . . . in the year of our Lord one thousand eight hundred and . . .

P. J. K., *Registrar of the High Court of Justice.*

E. F.,
No. . . . . STREET, PRETORIA,
Plaintiff's Attorney.

No. 206. RESOLUTION OF THE VOLKSRAAD, 17 SEPTEMBER 1884.

ART. 490.[1] The Raad now unanimously agreed to the draft as below, and adopted it as the resolution of the Raad,

[1] Repealed by Procl. No. 34 of 1901.

getal af te vaardigen leden aan de Regering te worden overgelaten. En door haar eveneens in overleg met de andere Regeringen de plaats waar de conferentie zal gehouden worden te worden bepaald.

"De Volksraad, van gevoelen dat de H.E. Regering der Zuid Afrikaansche Republiek met de Regeringen der Staten en de Kolonien van Zuid Afrika in onderhandeling dient te treden over de noodzakelijkheid van het sluiten van een tolverbond, op den grondslag van wederkeerige vrije invoer van de voortbrengselen der nijverheid dier Staten en Kolonien, magtigt hierbij de HEd. Regering de Regeringen van genoemde Staten en Kolonien uit te noodigen tot het houden eener conferentie van afgevaardigden uit de respective Staten en Kolonien, ten einde over het sluiten van zoodanig tolverbond te onderhandelen, tot welke conferentie de H.E. Regering dezer Republiek leden zal afvaardigen. Inmiddels wordt der Regering opgedragen in correspondentie met de Regering der Kaap Kolonie te treden ten einde de heffing van invoerrechten op voortbrengselen uit beide landen wederzijds voorloopig te staken, tot tijd en wijle over het sluiten van een tolverbond zal zijn beslist."

Locale Wetten der Z.A. Rep. I. 1265.

No. 207. VOLKSRAADSBESLUIT, 3 OCTOBER 1884.

ART. 749.[1] De Raad in overweging nemende dat er redenen bestaan te gelooven dat er scholen worden ondersteund uit 's lands

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the number of members to be sent as delegates to be left to the decision of the Government, who shall likewise, in consultation with the other Governments, fix on the place where the conference shall be held.

"The Volksraad, being of opinion that the Government of the South African Republic should enter into communication with the Governments of the States and Colonies of South Africa with regard to the necessity of forming a customs union on the basis of the reciprocal free importation of products of the industry of those States and Colonies, hereby empowers the Government to invite the Governments of the said States and Colonies to hold a conference of delegates from the respective States and Colonies in order to treat about the forming of such a customs union, to which conference the Government of this Republic shall send as delegates members. Meantime the Government is instructed to enter into communication with the Government of the Cape Colony with a view to discontinuing reciprocally, for the present, the levying of import duties on products of both countries till such time as the formation of a customs union shall be decided on."

No. 207. RESOLUTION OF THE VOLKSRAAD, 3 OCTOBER 1884.

ART. 749.[1] The Raad, considering that there is reason to believe that there are schools which are supported from the

[1] Repealed by Procl. No. 34 of 1901.

kas waar het medium van onderwijs niet is de Hollandsche taal, ingevolge de vereischten der wet,[1] draagt de Regering op naar deze omstandigheden onderzoek in te stellen door middel van ZEd. den Superintendent van Onderwijs en de wet stiptelijk toe te passen.

Locale Wetten der Z.A. Rep. I. 1268.

No. 208. VOLKSRAADSBESLUIT, 3 NOVEMBER 1884.

ART. 1166. De Raad gelet hebbende op Uitv. Raadsbesluit Art. 267, dd. 1 November 1884, en op de nu voorgestelde Postconventie met de Regeering van de Kaapkolonie, besluit:

a. De Regering te magtigen tot het sluiten dezer Conventie.

b. De Regering te autoriseeren om het binnenlandsch posttarief daarmede in overeenstemming te brengen.

c. De Regering te magtigen dergelijke Conventie aan te gaan met de Regeringen van den O. Vrijstaat en Natal.[2]

Locale Wetten der Z.A. Rep. I. 1298.

No. 209. VOLKSRAADSBESLUIT, 22 OCTOBER 1884.[3]

[Wordt besloten, dat van nu voortaan de Superintendent van Naturellen zaken zal zijn *ex officio* officiëel lid van den Uitv. Raad evenals de Commandant-Generaal.]

Locale Wetten der Z.A. Rep. I. 1274.

public treasury, and in which the medium of instruction is not the Dutch language—as is demanded by law[1]—instructs the Government to make enquiries into these circumstances through the Superintendent of Education and to apply the law strictly.

No. 208. RESOLUTION OF THE VOLKSRAAD, 3 NOVEMBER 1884.

ART. 1166. The Raad, having noted the resolution of the Executive Council, art. 267, dated 1st Nov. 1884, and having considered the Postal Convention now proposed to be concluded with the Government of the Cape Colony, resolves:

a. To authorise the Government to conclude the said Convention.

b. To authorise the Government to bring the inland postal tariff into line therewith.

c. To empower the Government to conclude similar conventions with the Governments of the O.F. State and Natal.[2]

No. 209. RESOLUTION OF THE VOLKSRAAD, 22 OCTOBER 1884.[3]

[Resolved, that in future the Superintendent of Native Affairs, like the Commandant-General, shall be *ex officio* a member of the Executive Council.]

[1] Law No. 1, 1882, art. 7; *Locale Wetten der Z.A. Rep.* I. 1071.

[2] Postal Conventions were concluded with the O.F. State and Natal in 1885.

[3] Repealed by Procl. No. 34 of 1901.

No. 210. VOLKSRAADSBESLUIT, 29 JUNIJ 1886.

ART. 730.[1] De Volksraad, overwogen hebbende memorie verzoekende de aanstelling eener commissie, om met eene gelijksoortige commissie door den Vrijstaatschen Volksraad benoemd te beraadslagen over een nauwere verbintenis en latere vereeniging der twee Zuster-Republieken; kennis genomen hebbende van het besluit van den E.A. Volksraad van den Oranje Vrijstaat, een gelijksoortig verzoek zijner burgers afwijzende, wegens de Britsche Suzereiniteit, waaronder de Z.A. Republiek zoude staan, zoodat door de verlangde vereeniging de onafhankelijkheid van den Oranje Vrijstaat in gevaar zoude worden gebragt, met de gronden waarop voormeld besluit berust niet kunnende instemmen; betreurt het ten zeerste, dat door voormeld besluit de Raad onzerzijds belet wordt aan het verzoek der memorialisten voor het tegenwoordige te voldoen, terwijl de Raad, zich vereenigende met het verzoek der memorialisten wat betreft de wenschelijkheid der zaak, zich bereid verklaart in de toekomst eenigen praktischen weg tot het gewenschte doel te volgen.

Locale Wetten der Z.A. Rep., II. 79.

No. 211. VOLKSRAADSBESLUIT, 7 JULI 1886.

ART. 877.[1] De Raad, de talrijk geteekende memories thans aan de orde, vragende vermindering van Volksraadsleden, overwogen

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No. 210. RESOLUTION OF THE VOLKSRAAD, 29 JUNE 1886.

ART. 730.[1] The Volksraad, having had under consideration a memorial requesting the appointment of a commission to consult with a similar commission appointed by the Free State Volksraad as to a closer connection between and subsequent union of the two sister Republics; having been informed of the resolution of the Volksraad of the Orange Free State, which refused a similar request made by their burghers by reason of the British Suzereignty under which the S.A. Republic is alleged to stand, so that by the desired union the independence of the Orange Free State would be endangered,—the Volksraad, being unable to admit the grounds on which the said resolution rests, deeply regrets that on account of the said resolution the Raad on our part is prevented from acceding to the request of petitioners for the present; meanwhile the Raad, associating itself with the request of the petitioners as regards the desirability of the matter, declares itself prepared to follow any practicable course for the attainment of the desired end in the future.

No. 211. RESOLUTION OF THE VOLKSRAAD, 7 JULY 1886.

ART. 877.[1] The Raad, having had under consideration the numerously signed memorials now under discussion asking

[1] Repealed by Procl. No. 34 of 1901.

hebbende, besluit het getal leden voor de districten Pretoria, Potchefstroom, Lijdenburg en Rustenburg te bepalen op drie leden elk, en voor de overige districten twee leden elk; en besluit verder dat de Raad zelf de vermindering zal regelen voor dat de Raad opbreekt; en besluit verder om aan de memorialisten kennis te geven dat aan hun verzoek is voldaan.

Locale Wetten der Z.A. Rep. II. 81.

No. 212. VOLKSRAADSBESLUIT, 9 MEI 1887.

ART. 57.[1] "De Volksraad, gelet hebbende op Uitv. Raadsbesluit, art. 162, dd. 9 Mei 1887, besluit:

"*a.* dat alle personen, die tijdens het overnemen van het stuk gronds, door de Londensche Conventie toegevoegd aan deze Republiek, stemgerechtigde burgers waren, in de landstreken toen genaamd Stellaland en Goosen, en wier woningen, woonplaatsen of plaatsen, gelegen waren in het gebied dat door de Londensche Conventie aan deze Republiek is toegevoegd, en die sinds dien tijd geheel of grootendeels gevestigd zijn geweest in deze Republiek, zullen stemgerechtigde burgers zijn van deze Republiek;

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for a decrease in the number of members of the Volksraad, resolves to place the number of members for the districts of Pretoria, Potchefstroom, Lijdenburg, and Rustenburg at three each, and for the other districts at two members each; and resolves further that the Raad shall itself regulate the decrease before it is dissolved; and resolves further to inform the memorialists that their request has been acceded to.

No. 212. RESOLUTION OF THE VOLKSRAAD, 9 MAY 1887.

ART. 57.[1] The Volksraad, having noticed the resolution of the Executive Council, art. 162, dated 9 May 1887, decides:

a. that all persons, who, at the time of taking over the piece of country which was added to this Republic by the London Convention, were burghers possessing the franchise in the territories then called Stellaland and Goshen, and whose dwellings, places of abode or farms were situated within the territory which was added to this Republic by the London Convention, and who have since that time been settled entirely or for the greater part in this Republic, shall be burghers of this Republic and shall possess the franchise;

[1] Repealed by Procl. No. 34 of 1901.

"*b.* dat een lijst van al deze personen zal worden opgemaakt en in de *Staatscourant* gepubliceerd;

"*c.* dat de uitvoering van dit besluit worde opgedragen aan de Regeering . . .;

"*d.* dat de beslissing over de vraag, wie in de termen van dit besluit zal vallen, zal berusten bij de Regeering. Van de beslissing der Regeering zal een appèl in hoogste instantie zijn bij den Uitvoerenden Raad, welk appèl bij den Uitvoerenden Raad moet zijn ingediend binnen zes weken nadat de beslissing der Regeering aan den belanghebbende is medegedeeld."

Locale Wetten der Z.A. Rep. II. 191.

No. 213. VOLKSRAADSBESLUIT, 21 JULIJ 1887.

ART. 1203.[1] De Raad gelet hebbende op art. 4 van 't Commissie rapport thans onder behandeling, verzoekende een ambtenaar als hoofd van 't mijnwezen, besluit zich te vereenigen met genoemde aanbeveling en besluit de Regeering te machtigen genoemden ambtenaar aan te stellen onder een salaris van £600 per jaar.

Locale Wetten der Z.A. Rep. II. 203.

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b. that a list of all these persons shall be made up and published in the *Staatscourant*;

c. that the carrying into effect of this resolution shall be entrusted to the Government . . .;

d. that the decision as to who shall fall under the terms of this resolution shall rest with the Government. From the decision of the Government there shall be an appeal in the last resort to the Executive Council, which appeal must be handed in to the Executive Council within six weeks from the time when the decision of the Government shall be communicated to the party concerned.

No. 213. RESOLUTION OF THE VOLKSRAAD, 21 JULY 1887.

ART. 1203.[1] The Raad, having noticed art. 4 of the Commission's report now under discussion, in which it is requested that an official be appointed as head of the mining industry, decides to accept the said recommendation, and decides to authorise the Government to appoint the said official at a salary of £600 per year.

[1] Repealed by Procl. No. 34 of 1901.

No. 214. ORDE VERTEGENWOORDIGING IN DEN VOLKSRAAD VAN DE PUBLIEKE DELVERIJEN. [11 Aug. 1887.]

WET No. 12, 1887.[1]

(*Goedgekeurd en vastgesteld bij besluit van den Edel Achtb. Volksraad, art.* 1266, *dd.* 25 *Julij* 1887.)

De Volksraad, de noodzakelijkheid inziende van eene nieuwe regeling aangaande de vertegenwoordiging in den Volksraad, van de bewoners der publieke delverijen, in dezen Staat gelegen, besluit daaromtrent de navolgende regelen en bepalingen vast te stellen.

ARTIKEL 1. Er zullen, waar zulks door ZHEd. met advies en consent van den Uitvoerenden Raad, noodig geacht moge worden, één of meer geproclameerde publieke delverijen tot een afzonderlijke kiesafdeeling worden verklaard. ZHEd. de Staatspresident zal eveneens het recht hebben met advies en consent van den Uitvoerenden Raad, bestaande of nog te proclameeren publieke delverijen toe te voegen aan zulk een kiesafdeeling, of die er van af te scheiden en aan eene andere dergelijke kiesafdeeling toe te voegen.

2. De grenzen van zulk een kiesafdeeling zullen door ZHEd. den Staatspresident bij proclamatie in de *Staatscourant* worden bekend gemaakt, evenals de veranderingen die in die grenzen van tijd tot tijd mochten worden aangebracht.

3. De volgens wet stemgerechtigde burgers van zulk een kiesafdeeling

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No. 214. ABOUT THE REPRESENTATION IN THE VOLKSRAAD OF THE PUBLIC DIGGINGS. [11 Aug. 1887.]

LAW No. 12, 1887.[1]

(*Approved and confirmed by resolution of the Volksraad, art.* 1266, *dated* 25 *July* 1887.)

The Volksraad, realising that it is necessary to make a new arrangement regarding the representation in the Volksraad of those dwelling on the public diggings situated within this State, resolves to lay down the following rules and regulations on the subject:

ARTICLE 1. Where it may be deemed necessary by the State President, with the advice and consent of the Executive Council, one or more diggings, having been proclaimed public diggings, shall be declared to form a separate electoral division. The State President shall likewise have the right, with the advice and consent of the Executive Council, to add any public diggings now existing or which may still be declared public, to such electoral division, or to separate the same therefrom and to add them to another such electoral division.

2. The boundaries of such an electoral division shall be made public by the State President by proclamation in the *Staatscourant*, as also the changes in those boundaries which may be effected from time to time.

3. The burghers of such an electoral division possessing

[1] Repealed by Procl. No. 34 of 1901.

zullen gerechtigd zijn, tot het verkiezen van één vertegenwoordiger in den Volksraad, welke vertegenwoordiger volgens de vereischten der wet, als zoodanig verkiesbaar moet zijn.

Locale Wetten der Z.A. Rep. II. 153.

No. 215. HET GEBRUIK DER HOLLANDSCHE TAAL VRERPLICHTEND STELLENDE. [30 Juli 1888.]

WET. No. 10, 1888.[1]

(*Vastgesteld en goedgekeurd bij besluiten van den Ed. Achtb. Volksraad, artt.* 1017/1025, *dd.* 13 *Juli* 1888, *en artt.* 1026/1027, *dd.* 14 *Juli* 1888, *en art.* 1030, *dd.* 16 *Juli* 1888.)

ART. 1. De Hollandsche taal is de officieele taal des lands. Alle andere talen zijn vreemde talen.

2. Alle officieele stukken, kennisgevingen, dienstbrieven en andere schriftureń van ambtenareń moeten zijn opgesteld en geschreven in de Hollandsche taal. Zij mogen vergezeld gaan van eene vertaling in eene vreemde taal. Deze vertalingen moeten echter als zoodanig zijn gemerkt.

Correspondentie met het buitenland mag in een vreemde taal geschieden.

3. In alle Hoven van den Staat zal steeds door alle ambtenaren de Hollandsche taal worden gebruikt. Die ambtenaren zullen tevens zorgen dat alle pleidooien in die taal worden gehouden.

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the franchise according to law shall be entitled to elect one representative for the Volksraad, which representative shall be eligible as such according to the demands of the law.

No. 215. MAKING THE USE OF THE DUTCH LANGUAGE COMPULSORY. [30 July 1888.][1]

LAW No. 10, 1888.[2]

(*Confirmed and approved by resolution of the Volksraad, arts.* 1017/1025, *dated* 13 *July* 1888, *and art.* 1026/1027, *dated* 14 *July* 1888, *and art.* 1030, *dated* 16 *July* 1888.)

ART. 1. The Dutch language shall be the official language of the country. All other languages are foreign languages.

2. All official documents, notices, official correspondence and other writings of officials shall be composed and written in the Dutch language. They may be accompanied by a translation into a foreign language. This translation, however, shall be marked as such.

Correspondence with foreign countries may be conducted in a foreign language.

3. In all Courts of the State the Dutch language shall always be used by all officials. Those officials shall further see to it that all pleadings are held in that language.

[1] Repealed by Procl. No. 34 of 1901.

4. Alle opveilingen zullen door de Marktmeesters geschieden in de Hollandsche taal.

De Marktmeesters zullen echter het recht hebben om het door hen gezegde daarna te herhalen in een vreemde taal.

5. Ambtenaren, die zich niet houden aan de voorschriften van de artikelen 2, 3 of 4 dezer Wet, kunnen door de Regeering worden gestraft met eene boete, die door de Regeering naar omstandigheden zal worden bepaald, echter niet tebovengaande de som van £10 voor elke overtreding, met schorsing of met ontslag.

6. Deze Wet treedt in werking dadelijk na publicatie in de *Staatscourant.*

Locale Wetten der Z.A. Rep. III. 33.

No. 216. VOLKSRAADSBESLUIT, 9 MEI 1888.

ART. 41. De Raad, gelet hebbende op de Regeeringsmissive, dd. 19 April, ll., met Uitv. Raadsbesluit, art. 346, dd. 6 Sept. 1887, daarin vervat, neemt kennis van de mededeeling daarin gedaan. Naardien het echter is gebleken en het steeds meer en meer blijkt dat het instroomen van Koelies, Chineezen en andere Aziaten binnen deze Republiek, nadeelig werkt op de belangen van dezen Staat, draagt de Raad de Regeering op zich wederom in correspondentie te stellen met Harer Majesteits Regeering, ten einde een zoodanige wijziging in de bepalingen der Conventie te bekomen als waardoor het de Regeering

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4. All auction sales shall be held by the Market-masters in the Dutch language.

The Market-masters shall, however, have the right to repeat in a foreign language what was said by them.

5. Officials who do not adhere to the provisions of articles 2, 3, or 4 of this Law, are liable to be punished by the Government with a fine to be fixed by the Government according to circumstances, but not exceeding the sum of £10 for each offence, together with suspension or dismissal.

6. This Law shall take effect immediately after its publication in the *Staatscourant.*

No. 216. RESOLUTION OF THE VOLKSRAAD, 9 MAY 1888.

ART. 41. The Raad, having noticed the Government's letter, dated 19th April last, together with the resolution of the Executive Council, art. 346, dated 6th September 1887, contained therein, takes note of the information therein given. As, however, it has appeared and it becomes more and more evident that the streaming-in of Coolies, Chinese, and other Asiatics into this Republic is detrimental to the interests of this State, the Raad authorises the Government to enter into communication with Her Majesty's Government again, in order to obtain such a change in the provisions of the Convention as shall permit the Government of the Country to

dezes lands zal vrijstaan de instrooming der bedoelde volken te beletten of op voldoende wijze te regelen.

Het Uitv. Raadsbesluit luidde als volgt:

Aan de orde: Minute 4095/87, inhoudende Volksraadsbesluit, art. 589, dd. 17 Juni 1887, *re* het beletten van den verderen invoer van Koelies, Chineezen en alle andere Aziaten.

De Uitv. Raad zich vereenigende met het advies van den Staatsprocureur,[1] ziet geen kans een Concept Wet zooals door memorialisten gevraagd, aan den E.A. Volksraad voor te leggen.

Locale Wetten der Z.A. Rep. III. 37.

No. 217. VOLKSRAADSBESLUITEN, 27 MEI 1889.

ART. 253. "De Volksraad, in overweging genomen hebbende het Uitv. Raadsbesluit, art. 260, dd. 13 Mei 1889, gelet hebbende op de dringende aanvraag der Regeering om meer hulp in den Uitv. Raad, kennis genomen hebbende van de vele veranderingen sedert 1873 aangebracht, in de samenstelling van den Uitv. Raad,[2] in aanmerking nemende de verklaring der beide rechtsgeleerde adviseurs van de Regeering, dat het verkiezen van nog een lid van den Uitv. Raad niet

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prohibit the streaming-in of the said nations or to regulate it in an adequate manner.

The resolution of the Executive Council ran as follows:

On the agenda: Minute 4095/87, containing resolution of the Volksraad, art. 589, dated 17th June 1887, about prohibiting the further introduction of Coolies, Chinese, and all other Asiatics.

The Executive Council, associating itself with the advice of the State Attorney,[1] sees no chance of laying before the Volksraad such a Bill as the memorialists have requested.

No. 217. RESOLUTION OF THE VOLKSRAAD, 27 MAY 1889.

ART. 253. The Volksraad, having deliberated on the resolution of the Executive Council, art. 260, dated 13th May 1889, having noticed the urgent request of the Government for more help in the Executive Council, having noted the many changes effected since 1873 in the composition of the Executive Council,[2] taking into account the statement of both the legal advisers of the Government to the effect that the election of another member of the Executive Council will not be in conflict with the existing laws of the country, having

[1] The opinion of the State Attorney ran as follows: "It seems to me fortunate that the instruction of the Volksraad contains the words, 'if possible.' A law, as here asked for, which clearly has for its aim and object to prohibit the influx of Chinese, Coolies, etc., is at variance with the Convention with England. Therefore I cannot advise that such a law be proposed to the Volksraad. (Signed) DR. W. J. LEYDS, *State Attorney*."

[2] Since 1874 there had been three unofficial members of the Executive.

in strijd zal zijn met de bestaande wetten des lands, gelet hebbende op de voorgelegde memories, besluit nog een officieel lid voor den Uitv. Raad te verkiezen als notulenhouder van den Raad, met dezelfde toelage als aan de non-officieele leden wordt toegestaan."

ART. 256. "De Volksraad besluit dat het pas gekozen officieel lid en notulenhouder van den Uitv. Raad in dienst zal blijven voor den tijd van 3 jaar en dat de gezegde ambtenaar beëedigd zal worden voor den Uitv. Raad."

Locale Wetten der Z.A. Rep. III. 150.

No. 218. GRONDWET VAN DE ZUID AFRIKAANSCHE REPUBLIEK. [19 Nov. 1889.]

[De belangrijkste punten waarop deze Grondwet verschilde van die van 1858 zijn aangegeven aan de voet van de bladzijden 363-410. Hier volgen enige artikelen die niet op die wijze behandeld konden worden.]

ART. 82 [85].[1] De Staatspresident oefent zijne macht uit met den Uitvoerenden Raad. Den Staatspresident zal een Uitvoerende Raad toegevoegd worden, bestaande uit den Commandant-Generaal, twee stemgerechtigde burgers, een Secretaris en een Notulenhouder, welke gelijke stem zullen hebben en den titel voeren van leden van den Uitvoerenden Raad. De Superintendent van Naturellen Zaken en de Notulenhouder zullen *ex-officio* lid zijn van den Uitvoerenden Raad. De Staatspresident en leden van den Uitvoerenden Raad zullen wel

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taken into their consideration the memorials submitted, decides to choose yet another official member for the Executive Council as keeper of the minutes of the Raad, with the same allowance as is made to the non-official members.

ART. 256. The Volksraad decides that the newly elected official member and Minute-keeper of the Executive Council shall remain in office for a period of three years, and that said official shall take the oath before the Executive Council.

No. 218. GRONDWET OF THE SOUTH AFRICAN REPUBLIC. [19 Nov. 1889.]

[The chief points of difference between this Grondwet and that of 1858 are indicated in foot-notes on pp. 363-410. The following articles could not be dealt with in this way.]

ART. 82 [85].[1] The State President exercises his power along with the Executive Council. With the State President shall be associated an Executive Council consisting of the Commandant-General, two burghers possessing the franchise, a Secretary and a Minute-keeper whose votes shall all be of equal value and who shall bear the title of members of the Executive Council. The Superintendent of Native Affairs and the Minute-keeper shall be *ex officio* members of the

[1] The bracketed numbers indicate the corresponding articles of the old Grondwet.

zitting doch geen stem in den Volksraad hebben. Het zal den Staatspresident vrijstaan bij voorkomende belangrijke zaken de hoofdambtenaren uit te noodigen in den Uitvoerenden Raad tegenwoordig te zijn, wier departement, het te behandelen onderwerp meer direct aangaat. Gezegde hoofd-ambtenaar zal alsdan een stem in den Uitvoerenden Raad hebben, en mede verantwoordelijk zijn voor de genomen besluiten en die mede onderteekenen.

83. Volgens de bedoeling van art. 82 zullen als hoofdambtenaren beschouwd worden: de Staatsprocureur, Thesaurier, Auditeur, Superintendent van Onderwijs, Weesheer, Registrateur van Akten, Landmeter-Generaal, Postmeester-Generaal, het Hoofd van het Mijnwezen, Hoofddirecteur van den Telegraafdienst en het Hoofd van Publieke Werken.

115 [127]. Het Volk vertrouwt de rechtspraak toe aan :

a. Een Hoog Gerechtshof ;
b. Een Rondgaand Hof ;
c. De Landdrosten in hunne qualiteit en zoodanige andere ambtenaren als door de Wet met rechtelijke bevoegdheid zullen worden bekleed.

De Hoven doen uitspraak zoo spoedig mogelijk na het voldingen der zaak.

De Hoofdrechter en Strafrechters moeten behoorlijk in de rechten gepromoveerd zijn.

Executive Council. The State President and the members of the Executive Council shall have session but no right to vote in the Volksraad. When important matters arise, the State President shall be at liberty to invite those head-officials to attend the Executive Council whose departments are more directly concerned with the matter to be dealt with. The said head-officials shall then have a vote in the Executive Council, shall share the responsibility for the decisions taken, and they too shall sign them.

83. According to the intention of art. 82 the following persons shall be regarded as head-officials : the State Attorney, the Treasurer, the Auditor, the Superintendent of Education, the Orphan Master, the Registrar of Deeds, the Surveyor-General, the Postmaster-General, the Head of the Mining Industry, the Chief Director of the Telegraph Service, and the Head of Public Works.

115 [127]. The nation entrusts the pronouncing of judgment to :

a. A High Court of Justice ;
b. A Circuit Court ;
c. The Landdrosts in their [judicial] capacity, and such other officials as shall be invested by law with judicial authority.

The courts shall pronounce sentence as soon as possible after a case has been decided.

The Chief Justice and the Puisne Judges shall hold proper degrees in law.

Het Openbaar Ministerie der Publieke Vervolging berust bij den Staatsprocureur en onder zijn toezicht bij de Publieke Aanklagers der verschillende districten.

De Leden der beide eerste Hoven worden voor hun leven aangesteld.

De Wet regelt voor hen de wijze waarop bij wangedrag of onbekwaamheid hun ontslag eervol of niet eervol, zal worden verleend.

140.[1] Districtsraden en Stads- of Dorpsbesturen kunnen opgericht worden waar de bevolking zulks verlangt. Aan het hoofd van ieder district staat een Landdrost, die *ex-officio* Voorzitter is van den Districts Raad, te kiezen door de burgers van het district, uit zooveel leden bestaande als er Veldkornetschappen zijn.

141. Aan de Districtsraden is de zorg der openbare wegen of andere openbare werken in het district toevertrouwd, benevens van alle andere zaken welke door de Wet hun worden opgelegd.

142. Met uitzondering van de bij de Wet vastgestelde salarissen worden alle kosten van het Districtsbestuur door het district zelf gedragen. Jaarlijks wordt daartoe eene begrooting van inkomsten en uitgaven gemaakt door den Districtsraad vastgesteld en aan den Uitvoerenden Raad ter goedkeuring opgezonden. Telken jare wordt op gelijke wijze rekening gedaan van het verloopen dienstjaar, die door den Districtsraad wordt gesloten en voor finale goedkeuring aan den Uitvoerenden Raad wordt opgezonden.

The office of Public Prosecutor shall rest with the State Attorney and, under his supervision, with the Public Prosecutors of the several districts.

The members of the first two courts shall be appointed for life.

The law regulates concerning them the manner in which in case of misbehaviour or incompetence they can receive an honourable or dishonourable dismissal.

140.[1] District Councils and town or village managements may be established where the population so desires. At the head of each district is a Landdrost who is *ex officio* Chairman of the District Council to be elected by the burghers of the district and to consist of as many members as there are field-cornetcies.

141. To the District Councils shall be entrusted the care of the public roads or other public works in the district, as also of all other matters which may be placed under their charge.

142. With the exception of the salaries appointed by law all expenses of the District Council shall be borne by the district itself. An annual estimate of revenue and expenditure shall be drawn up, confirmed by the District Council and submitted to the Executive Council for approval. In the same manner accounts shall be rendered each year of the previous financial year, which accounts shall be passed by the District Council and submitted to the Executive Council for their final sanction.

[1] *Vide* also the 1858 Grondwet, art. 174, and footnote.

De Districtsraad zal voor het heffen van eenige belasting de goedkeuring van den Volksraad vooraf ontvangen.

143. Aan het hoofd van ieder stads- of dorpsbestuur, bij de wet als zoodanig erkend, staat een Burgemeester en een Raad van 6 of 8 leden, naar de bevolking.

Alle kosten tot goedmaking van deze plaatselijke administratie worden door iedere plaats gedragen. Voor het heffen van eenige belasting door een Stads- of dorpsbestuur wordt de goedkeuring der wet vereischt.

Voor de plaatselijke begrooting en rekening gelden dezelfde regels als in het vorig artikel voor die van een district zijn vastgesteld.

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Locale Wetten der Z.A. Rep. III. 173.

No. 219. TOT INSTELLING EENER VOLKSVERTEGENWOORDIGING BESTAANDE UIT TWEE VOLKSRADEN.

[23 Juni 1890.]

WET No. 4, 1890.[1]

(Goedgekeurd en vastgesteld bij besluit van den E.A. Volksraad, art. 460 *dd.* 23 *Juni* 1890.]

ARTIKEL 1. De Wetgevende Macht zal berusten bij eene Volksvertegenwoordiging, die zal bestaan uit een Eersten Volksraad en een Tweeden Volksraad.

The District Council shall, before it levies any tax, first receive the sanction of the Volksraad.

143. At the head of each town or village management recognised as such by law there shall be a Mayor and a Council of 6 or 8 members, according to the population.

All charges for defraying the expenses of this local administration shall be borne by each place. For the levying of any taxes by a town or village management legal sanction is demanded.

For the local estimates and accounts the same rules shall apply as are laid down in the preceding article for those of a district.

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No. 219. TO ESTABLISH A NATIONAL REPRESENTATION CONSISTING OF TWO VOLKSRAADS.

[23 June 1890.]

LAW No. 4, 1890.[1]

(Approved and confirmed by resolution of the Volksraad, art. 460, *dated* 23 *June* 1890.)

ARTICLE 1. The power to legislate shall rest with a national representation which shall consist of a First Volksraad and a Second Volksraad.

[1] Repealed by Procl. No. 34 of 1901.

2. De Eerste Volksraad zal zijn het hoogste gezag in den Staat, evenals voor het inwerkingtreden dezer wet de Volksraad.

De Eerste Volksraad zal zijn het lichaam tot aan de inwerkingtreding dezer wet genoemd de Volksraad. Van af het tijdstip dier inwerkingtreding zal de naam van dat lichaam veranderd worden van Volksraad in Eerste Volksraad. De personen, als leden dat lichaam vormend, zullen echter dezelfden blijven; alleen zullen zij van af genoemd tijdstip in plaats van leden van den Volksraad genoemd worden leden van den Eersten Volksraad.

Alle wetten en besluiten, betrekking hebbende op den Volksraad en de leden daarvan zullen van kracht blijven en van toepassing zijn op den Eersten Volksraad en de leden daarvan, uitgezonderd in zooverre als daarin door deze en latere wetten verandering wordt of zal worden gebracht.

3. De Eerste en de Tweede Volksraad vergaderen minstens eenmaal 's jaars.

Hunne gewone vergaderingen worden in eene vereenigde zitting geopend op den eersten Maandag in de maand Mei, onder voorzitterschap van den voorzitter van den Eersten Volksraad.

Buitengewone vergaderingen kunnen door den Staatspresident worden bijeengeroepen zoo dikwijls hij die in 's lands belang noodig oordeelt.

4. Het getal van de leden van den Tweeden Volksraad zal hetzelfde

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2. The First Volksraad shall be the highest authority in the State, as was the Volksraad before this law came into effect.

The First Volksraad shall be the body called till the taking effect of this law the Volksraad. From the moment of such taking effect the name of that body shall be changed from Volksraad to First Volksraad. The persons, however, who constitute that body as members shall remain the same; only, they shall, from the moment mentioned, be called members of the First Volksraad instead of members of the Volksraad.

All laws and resolutions having reference to the Volksraad and the members thereof shall remain in force and be applicable to the First Volksraad and the members thereof, except in so far as any change shall be made therein by this law or by later laws.

3. The First and the Second Volksraad shall meet at least once a year.

Their ordinary meetings shall be opened in a combined session on the first Monday in the month of May under the chairmanship of the chairman of the First Volksraad.

Special meetings may be called by the State President as often as he deems them necessary in the interests of the country.

4. The number of members of the Second Volksraad shall

zijn als van den Eersten Volksraad. Dit getal zal voor beide Volksraden nader door den Eersten Volksraad worden bepaald.[1]

5. [Eed der leden.]

6. De wijze van verkiezing van de leden van den Tweeden Volksraad, zal dezelfde zijn als die van de leden van den Eersten Volksraad.

7. De leden van den Tweeden Volksraad zullen dezelfde toelagen genieten als de leden van den Eersten Volksraad, en dezelfde verplichtingen hebben, wat betreft de bekendmaking hunner wetten en besluiten aan hunne kiezers.

8. De leden van den Tweeden Volksraad worden gekozen voor den tijd van vier jaren.

In de eerste gewone zitting van den Tweeden Volksraad zal door het lot worden bepaald welke leden zullen behooren tot die helft, die reeds na verloop van de eerste twee jaren zal moeten aftreden.

9. De leden van den Eersten Volksraad worden gekozen door die stemgerechtigde burgers welke het burgerrecht verkregen hebben òf vóór de inwerkingtreding dezer wet òf daarna door geboorte, en den ouderdom van zestien jaren bereikt hebben.

Het kiesrecht voor den Eersten Volksraad kan bovendien ook verkregen worden door hen, die gedurende 10 jaar verkiesbaar zijn geweest voor den Tweeden Volksraad, bij besluit van den Eersten Volksraad en volgens regelen later bij de wet vast te stellen.

10. De leden van den Tweeden Volksraad worden gekozen door

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be the same as of the First Volksraad. This number shall be later specified for both Volksraads by the First Volksraad.[1]

5. [The oath of members.]

6. The manner of electing the members of the Second Volksraad shall be the same as that of electing members of the First Volksraad.

7. The members of the Second Volksraad shall enjoy the same allowances as the members of the First Volksraad and shall be under the same obligations as regards making their electors acquainted with their laws and resolutions.

8 The members of the Second Volksraad shall be chosen for the period of four years.

In the first ordinary session of the Second Volksraad it shall be decided by lot which members shall belong to that half who shall vacate their seats on the expiry of the first two years.

9. The members of the First Volksraad shall be chosen by those burghers possessing the franchise who have acquired the franchise either before the taking effect of this law or thereafter by birth, and who have reached the age of sixteen years.

The franchise for the First Volksraad may moreover also be obtained by those who for 10 years have been eligible for the Second Volksraad, on a resolution of the First Volksraad, and according to rules to be fixed by law hereafter.

10. The members of the Second Volksraad shall be elected

[1] By resolution of 2 Aug. 1890, art. 1168, each Volksraad had 24 members.

alle stemgerechtigde burgers, die den ouderdom van zestien jaren bereikt hebben.

11. Niemand mag zich voor beide Volksraden of in meer districten of kiesafdeelingen tegelijk verkiesbaar stellen.

12. [Verboden familiebetrekking van leden.]

13. [Krijgsofficieren en ambtenaren zijn niet verkiesbaar.]

14. [Gekleurden, bastaarden, personen van een openlijk slecht gedrag, niet-gerehabiliteerde bankroetiers ook niet verkiesbaar.]

15. Om te kunnen zitting nemen als lid van den Eersten Volksraad moet hij, die daartoe wettig gekozen is, dertig jaren oud en lid eener Protestantsche kerk zijn, in de Republiek wonen, daar vast eigendom hebben en het burgerrecht verkregen hebben, òf vóór de inwerkingtreding dezer wet, òf daarna door geboorte, òf het kierecht voor den Eersten Volksraad verkregen hebben volgens alinea 2 van art. 9.

16. Om te kunnenzitting nemen als lid van den Tweeden Volksraad moet hij, die daartoe wettig gekozen is, dertig jaren oud, gedurende de twee onmiddellijk voorafgaande jaren stemgerechtigd burger, lidmaat eener Protestantsche kerk zijn, in de Republiek wonen en daar vast eigendom hebben.

17. Elke Volksraad kiest zijn eigen voorzitter uit zijn midden.

18. Elke Volksraad benoemt buiten zijn midden zijn eigen secretaris op voordracht van den Uitvoerenden Raad.

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by all burghers possessing the franchise who have reached the age of sixteen years.

11. No one may place himself eligible for both Volksraads or in more districts or electoral divisions [than one] at the same time.

12. [Forbidden family relationship of members.]

13. [Military officers and officials are not eligible.]

14. [Coloured people, half-castes, persons of openly bad behaviour, and unrehabilitated bankrupts not eligible.]

15. In order to be able to take session as a member of the First Volksraad, any person lawfully chosen must be thirty years of age and a member of a Protestant Church, he must reside in the Republic, possess immovable property there, and must have obtained the franchise either before the taking effect of this law or thereafter by birth, or he must have obtained the franchise for the First Volksraad according to section 2 of art. 9.

16. In order to be able to take session as a member of the Second Volksraad, any person lawfully chosen must be thirty years of age, must have been a burgher possessing the franchise during the two years immediately preceding, must be a member of a Protestant Church, must reside in the Republic, and must possess immovable property there.

17. Each Volksraad shall elect its own chairman from its midst.

18. Each Volksraad shall appoint its own secretary, not being one of its own members, on the recommendation of the Executive Council.

19. Elke Volksraad zal te beoordeelen hebben of verkiezingen en de qualificaties van zijn eigen leden volgens wet zijn.

20. [Elk Volksraad stelt zijn eigen reglement van orde vast.]

21. De Staatspresident en de leden van den Uitvoerenden Raad zullen in beide Volksraden zitting hebben, met recht van deelneming aan de discussies, doch geene stem.

22. Het *quorum* zowel van den Eersten als van den Tweeden Volksraad zal bestaan uit twaalf leden.

Als in den Tweeden Volksraad geen *quorum* aanwezig is, zal zijn secretaris daarvan onmiddellijk bericht doen aan den Eersten Volksraad.

23. [Beide Volksraden zitten in het openbaar.]

24. [Zij houden notulen van hunne handelingen.]

25. Elk Volksraad heeft het recht zijn eigen leden te straffen voor wanordelijk gedrag.

Elk Volksraad heeft daarenboven het recht een lid uit te stooten met twee derden der uitgebrachte stemmen.

26. Aan het volk zal drie maanden tijds gelaten zijn om over een voorgestelde wet zijn oordeel aan de Volksraden desverkiezende te kunnen inleveren, behalve die wetten, die geen uitstel kunnen lijden.

27. De Tweede Volksraad zal de macht hebben de volgende onderwerpen zoo noodig bij wijze van wet of besluit verder te regelen:

1. Het mijnwezen.

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19. Each Volksraad shall decide whether elections and the qualifications of its own members are in accordance with law.

20. [Each Volksraad shall lay down its own rules of procedure.]

21. The State President and the members of the Executive Council shall have session in both Volksraads, with the right to take part in discussions, but without a vote.

22. The *quorum* of the First as well as of the Second Volksraad shall consist of twelve members.

When in the Second Volksraad no *quorum* is present, its secretary shall immediately announce the fact to the First Volksraad.

23. [The sessions of both Volksraads shall be open to the public.]

24. [Minutes of their proceedings shall be kept.]

25. Each Volksraad shall have the right to punish its own members for disorderly behaviour.

Each Volksraad shall, moreover, have the right to expel a member by the decision of two-thirds of the votes recorded.

26. A period of three months shall be given the people in which to express their opinion on a proposed law to the Volksraads, should they so desire, except in the case of those laws which can brook no delay.

27. The Second Volksraad shall have the power further to regulate if necessary by law or resolution the following subjects:

1. The mining industry.

2. Het maken en onderhouden van wagen en postwegen.
3. Het postwezen.
4. Het telegraaf- en telefoonwezen.
5. Het beschermen van uitvindingen, monsters en fabrieksmerken.
6. Het beschermen van het recht van den auteur.
7. De exploitatie en het onderhoud der houtbosschen en der zoutpannen.
8. Het bestrijden van besmettelijke ziekten.
9. De toestand, de rechten en verplichtingen van maatschappijen.
10. Insolventie.
11. De civiele procedure.
12. De crimineele procedure.
13. Zulke andere onderwerpen als de Eerste Volksraad nader bij besluit of wet zal bepalen, of de Eerste Volksraad speciaal naar den Tweeden Volksraad zal verwijzen.

28. Alle wetten of besluiten door den Tweeden Volksraad aangenomen, worden door hem zoo spoedig mogelijk, namelijk uiterlijk binnen acht en veertig uren medegedeeld, zoowel aan den Eersten Volksraad als aan den Staatspresident.

29. De Staatspresident heeft het recht, wanneer hij van den Tweeden Volksraad kennis heeft gekregen van de aanneming van een wet of een besluit, om binnen veertien dagen na ontvangst dier kennisgeving

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2. The making and the up-keep of wagon and postal roads.
3. The postal service.
4. The telegraph and telephone service.
5. The protection of inventions, samples [or patterns] and trade-marks.
6. The protection of authors' rights.
7. The utilising and up-keep of forests and salt-pans.
8. The combating of infectious diseases.
9. The condition, rights and duties of companies.
10. Insolvency.
11. Civil procedure.
12. Criminal procedure.
13. Such other subjects as the First Volksraad shall further specify by resolution or law, or as the First Volksraad shall specially refer to the Second Volksraad.

28. All laws or resolutions adopted by the Second Volksraad shall be made known by it as soon as possible, namely, at the latest within forty-eight hours, to the First Volksraad as well as to the State President.

29. The State President shall have the right, when he shall have received notice from the Second Volksraad of the adoption of a law or a resolution, to submit such law or such

die wet of dat besluit aan den Eersten Volksraad ter behandeling voor te leggen.

De Staatspresident is in ieder geval verplicht om van de ontvangst van zulk een kennisgeving mededeeling te doen aan den Eersten Volksraad binnen gezegden termijn.

30. Indien de Staatspresident binnen de veertien dagen, bedoeld in art. 29, de medegedeelde besluit niet aan den Eersten Volksraad ter behandeling heeft voorgelegd, en de Eerste Volksraad het evenmin noodig geacht heeft binnen die veertien dagen, bedoelde wet of bedoeld besluit uit eigen beweging in behandeling te nemen, zal de Staatspresident, tenzij hij, met advies en consent van den Uitvoerenden Raad, het in het belang van den Staat onwenschelijk acht, verplicht zijn die wet of dat besluit in de eerstvolgende *Staatscourant* te doen publiceeren, tenzij binnen bovenbedoelde veertien dagen de Eerste Volksraad mocht verdaagd zijn, in welk geval de publicatie in de *Staatscourant* eerst na verloop van acht dagen na den aanvang der eerstvolgende zitting van den Eersten Volksraad zal plaats vinden.

31. Geen wet of besluit, door den Tweeden Volksraad aangenomen zal van kracht zijn, tenzij door den Staatspresident gepubliceerd in de *Staatscourant*.

32. De wettelijke kracht van een wet of een besluit, door den Staatspresident in de *Staatscourant* gepubliceerd, mag niet worden

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resolution, within fourteen days after receiving the notice, to the First Volksraad to be dealt with by them.

The State President shall in any case be bound to inform the First Volksraad within the said period of the receipt of such notice.

30. If the State President shall not submit the resolution conveyed to him to the First Volksraad to be dealt with by them within the fourteen days mentioned in art. 29, and if likewise the First Volksraad shall not deem it necessary on their own initiative to deal with the said law or the said resolution within the said period of fourteen days, then the State President, unless he shall, with the advice and consent of the Executive Council, deem such a course undesirable in the interests of the State, shall be bound to cause that law or that resolution to be published in the next issue of the *Staatscourant*, unless the First Volksraad should be adjourned within the said period of fourteen days, in which case the publication in the *Staatscourant* shall take place only on the expiry of eight days after the beginning of the next following session of the First Volksraad.

31. No law or resolution adopted by the Second Volksraad shall be of force unless it shall be published in the *Staatscourant* by the State President.

32. The legal force of a law or a resolution published by the State President in the *Staatscourant* shall not be disputed,

betwist, behoudens het recht van het volk om memories daaromtrent te maken.

33. Deze wet treedt in werking twee maanden na publicatie in de *Staatscourant.*

Locale Wetten der Z.A. Rep. IV. 22.

No. 220. WIJZIGING VAN WET No. 7, 1882.

[23 Juni 1890.]

WET No. 5, 1890.[1]

(*Goedgekeurd en vastgesteld bij besluit van den E.A. Volksraad, art.* 461, *dd.* 23 *Juni* 1890.)

NADEMAAL het voor het tot stand komen eener wet op eene Volksvertegenwoordiging, bestaande uit twee Volksraden, wenschelijk is wijziging te brengen in Wet No. 7, 1882, genaamd de wet regelende het algemeen kiesrecht der burgers van de Zuid-Afrikaansche Republiek, zoo wordt hierbij vastgesteld en bepaald als volgt:

ARTIKEL 1. Het eerste artikel van Wet No. 7, 1882, wordt hierbij gewijzigd als volgt:

Om het kiesrecht in de Republiek te bezitten moet men burger zijn. Daaromtrent gelden de volgende bepalingen:

a. Om burger te wezen moet men binnen de Republiek geboren zijn of genaturaliseerd worden. Om kiezer te zijn, moet men den ouderdom van 16 jaren bereikt hebben.

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saving, however, the right of the people to present petitions concerning it.

33. This law shall take effect two months after its publication in the *Staatscourant.*

No. 220. A MODIFICATION OF LAW No. 7, 1882.

[23 June 1890.]

LAW No. 5, 1890.[1]

(*Approved and confirmed by resolution of the Volksraad, art.* 461, *dated* 23 *June* 1890.)

WHEREAS it is desirable for the coming into operation of a law for a National Representation consisting of two Volksraads to modify Law No. 7, 1882, entitled, "the Law to regulate the general franchise of the burghers of the South African Republic," therefore it is hereby affirmed and laid down as follows:

ARTICLE 1. The first article of Law No. 7, 1882, is hereby modified as follows:

In order to possess the franchise in the Republic one must be a burgher. With regard thereto the following regulations shall be of force:

a. In order to be a burgher one must have been born within the Republic or must have been naturalised. In order to be a voter one must have reached the age of 16 years.

[1] Superseded by Law No. 13, 1891, for which see No. 224.

b. Personen, niet in de Republiek geboren, maar van elders ingekomen, kunnen het burgerrecht verkrijgen en dus burgers worden, wanneer zij de hieronder vermelde brieven van naturalisatie verkregen hebben en den gevorderden eed hebben afgelegd.

c. Zulke personen zullen in handen van den daartoe aangewezen ambtenaar den volgenden eed afleggen:

"Ik . . . tot heden . . . geboren . . . verlangend burger der Zuid-Afrikaansche Republiek te worden en voldaan hebbende aan alle voorschriften der wet betrekkelijk de naturalisatie, verzaak, zie af en doe afstand van alle gehoorzaamheid, getrouwheid en onderworpenheid aan alle vreemde Vorsten, Hoofden, Staten en Souvereiniteiten en in 't bijzonder den Vorst, het Hoofd, den Staat of de Souvereiniteiten waarvan ik tot nu toe een onderdaan en burger ben, en zweer als onderdaan den eed van getrouwheid en gehoorzaamheid aan de Regeering en hare wetten en het volk der Zuid-Afrikaansche Republiek."

d. Vreemdelingen van elders ingekomen, kunnen toegelaten worden tot de naturalisatie, mits zij van den Landdrost van hun district of van den veldkornet hunner wijk het bewijs overleggen, dat zij zich minstens twee jaren hier te lande metterwoon gevestigd hebben en gedurende

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b. Persons who were not born in the Republic but have come in from elsewhere may obtain burgher rights and thus may become burghers when they have obtained the letters of naturalisation mentioned below and have taken the oath prescribed.

c. Such persons shall take the following oath before any official appointed for the purpose:

"I . . . till to-day . . . born . . . being desirous of becoming a burgher of the South African Republic and having conformed to all the demands of the law regarding naturalisation, abandon, discard and renounce all obedience, allegiance and subjection to all foreign Princes, Heads, States and Sovereignties and in particular to the Prince, Head, State or Sovereignty of which I have till now been a subject and burgher, and as a subject I swear the oath of allegiance and obedience to the Government and its laws and the people of the South African Republic."

d. Foreigners who have come in from elsewhere may be admitted to naturalisation, provided that they submit proof from the Landdrost of their district or the Field-cornet of their ward of having resided in this country for at least two years, of having conducted themselves during that time

dien tijd zich getrouw en gehoorzaam aan de wetten des lands gedragen hebben en zich ook minstens twee jaren lang hebben laten inschrijven op de veldcornetschapslijsten.

Het verzoek om naturalisatie wordt door den veldkornet, door middel van den Landdrost, met de noodige bewijsstukken aan de Regeering opgezonden en door deze aan den Staatsprocureur gerefereerd, die de stukken, na ze in orde bevonden te hebben, terugzendt aan den Uitvoerenden Raad, die dan de brieven van naturalisatie uitreikt en den bedoelden persoon den eed afneemt of door een daartoe aangewezen persoon doet afnemen.

De kosten der naturalisatie zijn £5.

e. Personen, onder bijzondere omstandigheden door de Regeering tot de naturalisatie uitgenoodigd, behoeven geen twee jaren in het land gewoond te hebben of bij den veldcornet ingeschreven te zijn geweest om tot de naturalisatie te worden toegelaten en behoeven ook geen som daarvoor te betalen.

2. Artikel 3 van genoemde wet wordt hierbij gewijzigd als volgt:

De in bovenstaande artikelen vermelde burgers, die het kiesrecht hebben verkregen, hebben het recht om hunne namen als kiezers te doen aanteekenen bij hunne respective veldcornetten, nadat zij

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in a manner faithful and obedient to the laws of the country, and of having had their names enrolled for at least two years on the Field-cornets' lists.

The request to be naturalised shall be sent by the Field-cornet, through the Landdrost, accompanied by the necessary proofs, to the Government, and shall be referred by them to the State Attorney, who shall send the proofs, after having found them in order, back to the Executive Council, who shall then issue the naturalisation papers to the person concerned, and shall administer the oath or cause it to be administered by some person appointed for the purpose.

The cost of naturalisation shall be £5.

e. Persons invited by the Government under special circumstances to be naturalised need not to have resided in the country for two years or to have been enrolled by the Field-cornet in order to be admitted to naturalisation, nor need they to pay any sum therefor.

2. Article 3 of the said law shall hereby be modified as follows:

The burghers mentioned in the preceding sections, who have obtained the franchise, shall have the right to have their names enrolled as voters by their respective Field-cornets,

het bewijs hebben geleverd dat zij het burger- en kiesrecht hebben verkregen.

3. [Verplichtingen der Veldcornetten ten opzichte der kiezerslijsten.]

4. Deze wet treedt in werking twee maanden na publicatie in de *Staatscourant.*

Locale Wetten der Z.A. Rep. IV. 27.

No. 221. VOLKSRAADSBESLUIT, 11 AUGUSTUS 1890.

ART. 1236.[1] De Raad vereenigde zich met Uitvoerende Raadsbesluit art. 502, dd. 9 Augustus 1890, en nam aldus het daarin vervatte concept Volksraadsbesluit als het besluit van den Volksraad aan.

Gemelde Uitvoerende Raadsbesluit luidt:

Aan de orde: Bespreking over het wenschelijke, dat, vooral met het oog op de tegenwoordige omstandigheden der Republiek, de Regeering gemachtigd worde door den E.A. Volksraad, zaken, waarvoor geen voorziening door den E.A. Volksraad is gemaakt en die niet kunnen wachten tot de aanstaande zitting van den E.A. Volksraad, zonder groote moeilijkheden te veroorzaken, te kunnen afdoen.

Besloten aan den E.A. Volksraad voor te stellen, evenals in vorige jaren, het navolgende besluit te passeeren:

De Volksraad besluit de Regeering te machtigen en op te dragen voorzieningen en regelingen te maken ten aanzien van alle zaken,

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after they shall have submitted the proofs of having obtained burgher rights and the franchise.

3. [Duties of the Field-cornets with regard to voters' lists.]

4. This law shall take effect two months after its publication in the *Staatscourant.*

No. 221. RESOLUTION OF THE VOLKSRAAD, 11 AUGUST 1890.

ART. 1236.[1] The Raad approved of the Executive Council's resolution, art. 502, dated 9 Aug. 1890, and thus adopted the draft resolution for the Volksraad contained therein as its own resolution.

The said resolution of the Executive Council is as follows:

On the agenda: A discussion of the desirability, especially with the present circumstances of the Republic in view, of authorising the Government to dispose of matters for which no provision has been made by the Volksraad and which cannot stand over till the next session of the Volksraad without grave difficulties being caused.

Decided to propose to the Volksraad that it shall, as in previous years, pass the following resolution:

The Volksraad resolves to authorise and require the Government to make provisions and regulations with regard to all

[1] Repealed by Procl. No. 34 of 1901.

waarvoor door den Volksraad geen voorziening is gemaakt en die van zoo dringenden aard zijn, dat zij niet kunnen blijven liggen tot de navolgende zitting van den Volksraad, en, dat dergelijke regelingen kracht van wet zullen hebben tot nadere beslissing daaromtrent van den Volksraad.

De Regeering zal daarvan rapport doen in de eerstvolgende gewone zitting.

Locale Wetten der Z.A. Rep. IV. 79.

No. 222. EERSTE VOLKSRAADSBESLUIT, 31 JULI 1891.

ART. 1197. De Raad vereenigde zich bij acclamatie met het commissierapport.[1]

Gemeld rapport luidt:

Uw Commissie is van oordeel, dat de burgers der Republiek, die in 1880 en 1881, te Paardekraal met opheffing der handen, zoo goed als onder eede zich aan ons hebben verbonden en die met ons saamgestreden hebben gedurende den Vrijheidsoorlog, en die verder gedurende den Vrijheidsoorlog zich bij ons aangesloten hebben, en met ons tot het einde van den Vrijheidsoorlog gestreden hebben en nog in de Republiek woonachtig zijn, daardoor van zelf en als door een krachtige naturalisatie bij ons zijn ingelijfd, en beveelt den E.A.

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matters for which no provision has been made by the Volksraad and which are of so pressing a nature that they cannot stand over till the next session of the Volksraad, and that such regulations shall have the force of law till the Volksraad shall further decide thereon.

The Government shall deliver a report thereon in the next ordinary session.

No. 222. RESOLUTION OF THE FIRST VOLKSRAAD, 31 JULY 1891.

ART. 1197. The Raad adopted the committee's report[1] with acclamation.

The said report is as follows:

Your committee is of opinion that the burghers of the Republic who in 1880 and 1881 at Paardekraal, raising their hands, as good as united themselves with us by oath, and who fought by our sides during the War of Independence, and who further combined with us during the War of Independence, and who fought on our side till the end of the War of Independence, and who are still resident in the Republic, have in that way, of their own accord, and as it were by a mighty deed of naturalisation, been incorporated with us; and your committee recommends to the First Volksraad that the said

[1] A report of the Memorials Committee, with reference to eight petitions which requested that the franchise should be granted to persons who had assisted in the War of Independence. This resolution was formally repealed by Procl. No. 34 of 1901.

Eersten Volksraad aan de bedoelde burgers stemgerechtigd te verklaren onder Wet No. 7, 1882.

Locale Wetten der Z.A. Rep. IV. 288.

No. 223. EERSTE VOLKSRAADSBESLUIT, 26 AUGUSTUS 1892.

ART. 1292. [Zij die zich voor het passeeren van Wet No. 1, 1876, in de Z.A. Republiek gevestigd hebben, zijn stemgerechtigde burgers.]

Locale Wetten der Z.A. Rep. IV. 630.

No. 224. TOT VERDUIDELIJKING EN WIJZIGING VAN WET No. 13, 1891. [20 Sept. 1893.]

WET No. 14, 1893.[1]

REGELENDE HET ALGEMEEN KIESRECHT DER BURGERS VAN DE ZUID-AFRIKAANSCHE REPUBLIEK.

(*Goedgekeurd bij besluit van den Edelachtb. Volksraad onder art.* 1341, *dd.* 8 *September* 1893.)

NADEMAAL het wenschelijk is, dat het kiesrecht van de burgers der Zuid-Afrikaansche Republiek nader bepaald en omschreven worde, zij het hierbij vastgesteld als volgt:

ARTT. 1–3. [In hoofdzaak de bepalingen reeds neergelegd, vooral die van Wet No. 5, 1890.]

4. De stemgerechtigde burgers, die het kiesrecht hebben verkregen,

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burghers should be declared to possess the franchise in accordance with Law No. 7, 1882.

No. 223. RESOLUTION OF THE FIRST VOLKSRAAD, 26 AUGUST 1892.

ART. 1292. [Those who have settled in the S.A. Republic before the passing of Law No. 1, 1876, shall be burghers possessing the franchise.]

No. 224. TO EXPLAIN AND MODIFY LAW No. 13, 1891. [20 Sept. 1893.]

LAW No. 14, 1893.[1]

REGULATING THE GENERAL FRANCHISE OF THE BURGHERS OF THE SOUTH AFRICAN REPUBLIC.

(*Approved of by resolution of the Volksraad under art.* 1341, *dated* 8 *Sept.* 1893.)

WHEREAS it is desirable that the franchise of the burghers of the South African Republic should be further laid down and described, be it hereby affirmed as follows:

ARTS. 1–3. [In the main the provisions already laid down are repeated, in particular those of Law No. 5, 1890.]

4. The burghers possessing the franchise, who have obtained

[1] Repealed by Procl. No. 34 of 1901.

òf vóór de inwerkingtreding van Wet No. 4, 1890, of daarna krachtens het recht, voortvloeiende uit de geboorte binnen de Zuid-Afrikaansche Republiek, hebben het recht hunne stem uit te brengen als volgt:

a. Voor het kiezen van een veldcornet der wijk, elk in zijn eigen wijk.

b. Voor elke verkiezing, die het geheele district of de kiesafdeeling hunner inwoning betreft.

c. Voor elke verkiezing, die de geheele Zuid-Afrikaansche Republiek betreft.

Uitbreiding van dit kiesrecht kan niet geschieden zonder dat een voorstel daartoe een jaar lang gepubliceerd is geweest in de *Staatscourant* en minstens twee derden van genoemde stemgerechtigde burgers zich daarvoor hebben verklaard.[1]

De stemgerechtigde burgers, die het kiesrecht hebben verkregen krachtens naturalisatie na de inwerkingtreding van Wet No. 4, 1890, hebben het recht hunne stem uit te brengen als volgt:

a. Voor het kiezen van een Veldcornet der wijk, elk in zijn eigen wijk.

b. Voor een lid van den Tweeden Volksraad van het district of de kiesafdeeling hunner inwoning.

c. Voor elke andere verkiezing, die het geheele district of de

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the same either before the taking effect of Law No. 4, 1890, or thereafter by virtue of the right arising from their having been born within the South African Republic, shall have the right to record their votes as follows:

a. In electing a Field-cornet of the ward, every burgher in his own ward;

b. At every election which concerns the whole district or the electoral division in which they reside;

c. At every election which concerns the whole of the South African Republic.

No extension of this franchise can take place unless a proposal to that effect has been published in the *Staatscourant* for one year and at least two-thirds of the said burghers possessing the franchise have declared themselves in favour of such extension.[1]

The burghers possessing the franchise, who have obtained the same by virtue of their naturalisation after the taking effect of Law No. 4, 1890, shall have the right to record their votes as follows:

a. In electing a Field-cornet of the ward, every burgher in his own ward;

b. For a member of the Second Volksraad for the district or the electoral division in which they reside;

c. At every other election which concerns the whole district or the electoral division in which they

[1] This is the highest degree of rigidity ever reached in the Transvaal Constitution. It will have been observed up to this date that a majority in the Volksraad could generally accomplish any change. But *cf.* art. 42, p. 371, and foot-note.

kiesafdeeling hunner inwoning betreft en waar zij volgens wet toe gerechtigd zijn.

5–23. [Hoe men stemmen mag, enz.]

24. Alle wetten en bepalingen, in strijd met deze wijziging, worden hiermede herroepen en deze wijziging zal dadelijk na publicatie kracht van wet hebben.[1]

Locale Wetten der Z.A. Rep. IV. 806.

No. 225. EERSTE VOLKSRAADSBESLUIT, 23 AUGUSTUS 1894.

ART. 1454.[2] De Eerste Volksraad, lettende op het schrijven van de rechters van het Hooggerechtshof, dd. 7 Augustus jl., overgelegd bij Regeeringsmissive thans aan de orde, overwegende, dat het wenschelijk is, gevolg te geven aan art. 115 der Grondwet, waarbij wordt bepaald, dat de wet de wijze regelt, waarop bij wangedrag of onbekwaamheid aan de rechters ontslag eervol of niet eervol zal worden verleend,[3] overwegende, dat deze zaak geen uitstel lijden kan, daar reeds te lang verzuimd is geworden uitvoering te geven aan bovengenoemd voorschrift der Grondwet, overwegende, dat het ook wenschelijk en noodzakelijk is dergelijke bepalingen te maken, met betrekking tot den Staatspresident en leden van den Uitvoerenden Raad, besluit als volgt:

ART. 1. De Staatspresident, leden van den Uitvoerenden Raad en die van het Hooggerechtshof staan terecht:

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reside when they shall be legally entitled to vote at such election.

5–23. [The manner of voting, etc.]

24. All laws and regulations which are in conflict with this modified law are hereby repealed, and this modified law shall have force of law immediately on its publication.[1]

No. 225. RESOLUTION OF THE FIRST VOLKSRAAD, 23 AUGUST 1894.

ART. 1454.[2] The First Volksraad, taking note of the letter of the judges of the High Court of Justice, dated 7th August, transmitted by the Government's communication now under discussion; considering that it is desirable to give effect to art. 115 of the Grondwet whereby it is laid down that the law shall regulate the manner in which in case of bad behaviour or incompetence the judges may receive an honourable or dishonourable dismissal;[3] considering that this matter can brook no delay, as too long a delay has already been allowed in giving effect to the provision of the Grondwet above mentioned; that it is also desirable and necessary to make similar rules with regard to the State President and the members of the Executive Council; decides as follows:

ART. 1. The State President, the members of the Executive Council and those of the High Court of Justice shall be tried:

[1] First published on 27 Sept. 1893.
[2] Repealed by Procl. No. 34 of 1901.
[3] Page 487.

a. wegens misdaden en overtredingen voor den gewonen rechter;

b. wegens ambtsmisdrijven, wangedrag of onbekwaamheid voor een bijzonder hof.

2. De aanklacht wegens ambtsmisdrijven, wangedrag of onbekwaamheid geschiedt schriftelijk:

a. Voor den Staatspresident en de leden van den Uitvoerenden Raad aan den Voorzitter van den Eersten Raad, die de aanklacht voor den Eersten Volksraad brengt, en indien de Eerste Volksraad overtuigd is, dat er redelijke gronden zijn voor de aanklacht, deze in handen stelt van den Staatsprocureur en maatregelen neemt voor de aanstelling van het bijzonder hof.

b. Voor de leden van het Hooggerechtshof bij de Regeering, die, indien zij overtuigd is, dat er redelijke gronden zijn voor de aanklacht, met advies en consent van den Uitvoerenden Raad, het betrokken lid dadelijk in zijn ambt schorst en daarvan schriftelijk kennis geeft aan den Voorzitter van den Eersten Volksraad, welke Volksraad maatregelen neemt voor de samenstelling van het bijzondere hof.

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a. for crimes and transgressions before the usual judge;

b. for offences committed in their official capacity, for bad behaviour or for incompetence before a special court.

2. Indictments for offences committed in their official capacity, for bad behaviour or for incompetence shall be made in writing:

a. In the case of the State President and the members of the Executive Council to the Chairman of the First Raad, who shall bring the charge before the First Volksraad, and if the First Volksraad shall be convinced that there are reasonable grounds for the charge it shall place the same in the hands of the State Attorney and shall take steps for the appointment of the special court.

b. In the case of members of the High Court of Justice to the Government which, if convinced that there are reasonable grounds for the charge, shall with the advice and consent of the Executive Council immediately suspend the member concerned, and shall give written notice thereof to the Chairman of the First Volksraad, which Volksraad shall take steps for forming the special court.

De manier van procedeeren bij het bijzonder hof is zoo na mogelijk dezelfde als voor het Hooggerechtshof.

3. Wanneer de Staatspresident of een lid van den Uitvoerenden Raad in staat van beschuldiging is gesteld, heeft dit onmiddellijk schorsing in zijn ambt of waardigheid door den Eersten Volksraad tengevolge. De Vice-President treedt, zoo noodig, op als Voorzitter van den Uitvoerenden Raad in plaats van den Staatspresident.

4. Het bijzonder hof, in artt. 1 en 2 bepaald zal samengesteld zijn uit vijf leden van den Eersten Volksraad, daartoe door dat lichaam gekozen en uit hoogstens vier leden van het Hooggerechtshof door dat hof daartoe aangewezen, uitgezonderd het lid of de leden, die in staat van beschuldiging zijn gesteld.

5. Indien de gewone rechter, bij misdaden waaraan een onteerende straf is verbonden, en het bijzondere hof bij ambtsmisdrijven, wangedrag of onbekwaamheid, den in staat van beschuldiging zijnde, schuldig bevindt, wordt deze, indien hij Staatspresident of lid van den Uitvoerenden Raad is, bij speciaal besluit van den Eersten Volksraad, zoo noodig daartoe speciaal opgeroepen, uit zijn ambt of waardigheid ontzet.

De Regeering ontzet het veroordeelde lid van het Hooggerechtshof.

6. Dit besluit treedt in werking dadelijk na publicatie in de *Staatscourant.*

Locale Wetten der Z.A. Rep. V. 307.

The manner of proceeding in the special court shall be as nearly as possible the same as in the High Court of Justice.

3. When the State President or a member of the Executive Council is placed under the necessity of having to answer a charge, this shall immediately have the result that he shall be suspended from his office or dignity by the First Volksraad. The Vice-President shall then, if necessary, act as Chairman of the Executive Council in stead of the State President.

4. The special court provided for in arts. 1 and 2 shall be composed of five members of the First Volksraad chosen for the purpose by that body, and not more than four members of the High Court of Justice appointed for the purpose by that court, not including the member or members placed under the necessity of having to answer a charge.

5. If the ordinary judge shall find the accused guilty in the case of crimes for which a dishonouring sentence has been prescribed, or if the special court shall find the accused guilty in the case of offences committed in an official capacity, bad behaviour or incompetence, then the latter, if he be the State President or a member of the Executive Council, shall be dismissed from his office or dignity by special resolution of the First Volksraad, which shall be specially summoned for the purpose if necessary.

The Government shall dismiss a member of the High Court of Justice against whom sentence has been pronounced.

6. This resolution shall take effect immediately on its publication in the *Staatscourant.*

No. 226. EERSTE VOLKSRAADSBESLUIT, 25 JULI 1895.[1]

[Toekenning van het volle stemrecht aan hen die opgekommandeerd werden voor de oorlogen in Zoutpansberg en de expeditie naar Swazieland meemaakten.]

Locale Wetten der Z.A. Rep. VI. 280.

No. 227. DE GRONDWET DER ZUID-AFRIKAANSCHE REPUBLIEK. [13 Juni 1896.]

WET No. 2, 1896.[2]

[Deze Grondwet verschilde van die van het jaar 1889 vooral daarin dat het de belangrijke veranderingen insloot die sedert die tijd in de constitutie gemaakt werden. De voornaamste van die veranderingen zijn in de bovenstaande stukken vervat.]

Locale Wetten der Z.A. Rep. VII. 35.

No. 228. REGELENDE HET RECHT TOT UITZETTING VAN VREEMDELINGEN. [8 Oct. 1896.]

WET No. 25, 1896.[3]

(*Goedgekeurd en vastgesteld door den E.A. Eersten Volksraad, bij art.* 1819 *zijner notulen, dd.* 28 *September* 1896.)

NADEMAAL art. 6 der Grondwet bepaalt dat het grondgebied der

No. 226. RESOLUTION OF THE FIRST VOLKSRAAD, 25 JULY 1895.[1]

[The full franchise is granted to those who were called up for service in the war at Zoutpansberg and who took part in the expedition to Swaziland.]

No. 227. THE GRONDWET OF THE SOUTH AFRICAN REPUBLIC. [13 June 1896.]

LAW No. 2, 1896.[2]

[This Grondwet differed from the one of 1889 mainly in that it embodied the important constitutional changes indicated by the laws passed after 1889, the chief of which are given above.]

No. 228. REGULATING THE RIGHT TO EXPEL FOREIGNERS. [8 Oct. 1896.]

LAW No. 25, 1896.[3]

(*Approved and confirmed by the First Volksraad by art.* 1819 *of their minutes, dated* 28 *September* 1896.)

WHEREAS art. 6 of the Grondwet lays it down that the

[1] Repealed by Procl. No. 34 of 1901.
[2] Formally repealed by Procl. No. 34 of 1901.
[3] Repealed by Procl. No. 34 of 1901.

Republiek openstaat voor iederen vreemdeling, mits hij zich aan hare wetten onderwerpt, en

Nademaal geene wettelijke bepalingen bestaan, het recht der Regeering regelende om vreemdelingen, die zich niet aan de wetten der Republiek onderwerpen of die gevaarlijk zijn voor de openbare rust en orde over de grenzen te zetten, en

Nademaal deze wet geen uitstel kan lijden en ofschoon niet drie maanden van te voren volgens de bepalingen van de Grondwet gepubliceerd dadelijk in behandeling moet worden genomen,

Zoo wordt hiermede bepaald en vastgesteld als volgt:

1. De vreemdeling, die mondeling of in geschrifte opruit tot ongehoorzaamheid aan of overtreding van de wet of eenige wettelijke bepaling, of middelen van dwang en geweld aanwendt, waardoor de openbare rust en orde in gevaar gebracht wordt of kan worden, of anderszins door zijne handelingen gevaarlijk is voor de openbare rust en orde, kan op last van ZHEd. den Staatspresident, handelende met advies en consent van den Uitvoerenden Raad, na het advies van den Staatsprocureur te hebben gehoord, worden uitgezet.

De vreemdeling, wiens uitzetting door ZHEd. den Staatspresident is bevolen, is verplicht binnen een tijd in het bevel te bepalen na bekomen kennisgeving den Staat te verlaten.

Gedurende dien tijd kan hij gebruik maken van de bevoegdheid bij art. 5 verleend en inmiddels in verzekerde bewaring gesteld worden.

Wanneer hij van die bevoegdheid geen gebruik maakt of het Hooggerechtshof zijne bezwaren ongegrond bevonden heeft, wordt

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territory of the Republic stands open for every foreigner, provided he submits to the laws; and

Whereas there exist no legal regulations specifying the right of the Government to take foreigners across the frontiers if they do not submit to the laws of the Republic or if they are dangerous to the public peace and order; and

Whereas this law can brook no delay, and must be dealt with immediately although not published three months in advance according to the provisions of the Grondwet;

Now therefore it is hereby laid down and affirmed as follows:

1. Any foreigner who by word or in writing incites any person to disobey the law or any lawful regulation, or who employs any forceful means whereby the public peace and order are or may be endangered, or who in any other way by reason of his actions is a danger to the public peace and order, may be expelled by command of the State President acting with the advice and consent of the Executive Council after having obtained the opinion of the State Attorney.

Any foreigner whose expulsion has been ordered by the State President shall be bound to depart from the State within a period to be specified in the order on receipt of a notification.

During that time he may make use of the privilege allowed in art. 5, and shall in the meantime be placed in safe custody.

If he shall not avail himself of that privilege, or if the High Court of Justice shall have found his objections groundless,

aan den last tot uitzetting onmiddellijk gevolg gegeven. Indien wordt beslist dat hij een burger is dan valt hij onder art. 2.

2. ZHEd. de Staatspresident, handelende met advies en consent van den Uitvoerenden Raad en na het advies van den Staatsprocureur te hebben gehoord, heeft de bevoegdheid aan vreemdelingen en burgers, die mondeling of in geschrifte opruien tot ongehoorzaamheid aan, of overtreding van de wet of eenige wettelijke bepaling, of middelen van dwang en geweld aanwenden, waardoor de openbare rust en orde in gevaar gebracht wordt of kan worden, of anderszins door hunne handelwijze gevaarlijk zijn voor de openbare rust en orde, eene bepaalde plaats of plek binnen de Republiek tot verblijf aan [te] wijzen en hun het verblijf op bepaalde plaatsen of plekken in de Republiek [te] ontzeggen en hen alzoo naar, in of uit zekere plaatsen of plekken te verbannen.

3. Burgers der Z.A. Republiek kunnen niet over de grenzen der Republiek worden verwijderd.

4. [De Staatspresident doet verslag aan den Eersten Volksraad.]

5. [Alle personen die beweren burgers te zijn kunnen zich op dien grond wenden tot het Hooggerechtshof.]

6. [Strafbepaling voor vreemdelingen die niet handelen overeenkomstig bevel. Strafbepaling voor vreemdelingen die na hun verwijdering terugkeeren zonder verlof.]

7. [Strafbepaling voor burgers die niet handelen overeenkomstig bevel.]

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then the order of expulsion shall immediately be executed. If it be decided that he is a burgher then he falls under art. 2.

2. The State President, acting with the advice and consent of the Executive Council, and after having obtained the opinion of the State Attorney, shall have authority to point out any definite place or spot of residence within the Republic, and to forbid any definite place or places of residence, to foreigners and burghers who verbally or in writing incite to disobedience to or transgression of the law or any lawful regulation, or who employ forceful and violent means whereby the public peace and order are or may be endangered, or who in any other way by reason of their behaviour are a danger to the public peace and order, and shall thus transfer them to, into or from certain places or spots.

3. It shall not be permissible to remove burghers of the S.A. Republic across the frontiers of the Republic.

4. [The State President shall report to the First Volksraad.]

5. [All persons who claim to be burghers may apply to the High Court of Justice on that ground.]

6. [Punishment prescribed for foreigners who do not act according to orders. Punishment of foreigners who after their removal shall return without permission.]

7. [Punishment of burghers who do not act according to orders.]

8. [Opname van een signalement van een vreemdeling die over de grenzen verwijderd wordt.]

9. Deze wet treedt in werking, dadelijk na publicatie in de *Staatscourant.*

Locale Wetten der Z.A. Rep. VII. 242.

No. 229. EERSTE VOLKSRAADSBESLUIT, 17 AUGUSTUS 1896.

ART. 1205.[1] [Vol stemrecht aan hen die opgetrokken zijn tegen Jameson.]

Locale Wetten der Z.A. Rep. VII. 337.

No. 230. EERSTE VOLKSRAADSBESLUIT, 4 SEPTEMBER 1896.

ART. 1358.[1] [De posten van Superintendent van Naturellen en Commandant-Generaal van elkaar gescheiden.]

Locale Wetten der Z.A. Rep. VII. 342.

No. 231. DE WETGEVENDE TEGEN DE RECHTERLIJKE MACHT.

WET NO. 1, 1897.[1] [1 Maart 1897.]

(*Goedgekeurd bij besluit van den Edel Achtb. Eersten Volksraad, art.* 451, *dd.* 26 *Februari* 1897.)

Overwegende dat van af de stichting dezer Republiek de Besluiten van den Volksraad als Wet zijn erkend en geëerbiedigd en de Rechter-

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8. [Taking down the description of a foreigner who is being removed across the frontiers.]

9. This law shall take effect immediately on its publication in the *Staatscourant.*

No. 229. RESOLUTION OF THE FIRST VOLKSRAAD, 17 AUGUST 1896.

ART. 1205.[1] [The full franchise granted to those who fought against Jameson.]

No. 230. RESOLUTION OF THE FIRST VOLKSRAAD, 4 SEPTEMBER 1896.

ART. 1358.[1] [The offices of Superintendent of Natives and Commandant-General are separated from each other.]

No. 231. THE LEGISLATURE *v.* THE JUDICATURE.

LAW NO. 1, 1897.[1] [1 March 1897.]

(*Approved of by resolution of the First Volksraad, art.* 451, *dated* 26 *Feb.* 1897.)

Considering that since the founding of this Republic the Resolutions of the Volksraad have been acknowledged as law

[1] Repealed by Procl. No. 34 of 1901.

lijke Macht geen bevoegdheid bezat de Wetten en Besluiten door den Volksraad gemaakt op zij te zetten ;

Overwegende dat zulks was de wil van het Volk der Zuid-Afrikaansche Republiek, zooals neergelegd in de Grondwet van 1858 en gehandhaafd in de samengestelde Grondwet van 1896 en in de Bijlage No. 2 van die Grondwet dd. 19 September 1859, die o.a. bepaalt :

[Artt. 2 en 3 van genoemde Bijlage [1] worden hier herhaald.]

Overwegende dat in de Grondwet van 1858 volgens de eeden, die daarin zijn opgenomen en voorgeschreven respectivelijk voor de leden van den Volksraad en voor de leden van de Rechterlijke Macht, het zoogenoemd toetsingsrecht niet toekomt aan de Rechterlijke Macht, die volgens hun eed recht moeten spreken volgens de landswetten ;

Overwegende dat ook het Hoog Gerechtshof van dezen Staat herhaaldelijk heeft beslist, dat Volksraadsbesluiten wel kracht van Wet hebben en dat de Rechterlijke Macht geen zoogenaamd toetsingsrecht bezit ;

Overwegende dat de locale Wetgeving der Republiek, om de redenen hierboven uiteengezet, voor een groot deel berust op Volksraadsbesluiten ;

Overwegende dat Wet No. 4, 1890, na behoorlijk gepubliceerd te zijn geweest, door den Volksraad na behandeling niet dadelijk in werking is gesteld, maar nogmaals speciaal voor het Volk is gelegd, en

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and respected, and that the Judicial Power was not competent to set aside the Laws and Resolutions passed by the Volksraad ;

Considering that this was the will of the People of the South African Republic as laid down in the Grondwet of 1858 and maintained in the composed Grondwet of 1896, and in Addendum No. 2 of that Grondwet, dated 19 September 1859, which amongst other things declares :

[Arts. 2 and 3 of the said Addendum [1] are repeated here.]

Considering that in the Grondwet of 1858, according to the oaths therein contained and prescribed respectively for the members of the Volksraad and the members of the Judicial Power, the so-called right of testing is not given to the Judicial Power, whose members must, in accordance with their oath, pronounce judgment according to the laws of the country ;

Considering that the High Court of Justice of this State has itself repeatedly decided that resolutions of the Volksraad do indeed have the force of law, and that the Judicial Power possesses no so-called right of testing ;

Considering that the local legislation of the Republic, for the reasons set forth above, is based to a great extent on resolutions of the Volksraad ;

Considering that Law No. 4, 1890, after having been duly published, was not immediately declared of effect by the Volksraad, but was again specially laid before the People, and

[1] *Vide* p. 418.

het Volk zich met die Wet heeft vereenigd, nadat dezelve drie malen achtereen gepubliceerd is geworden;

Overwegende dat art. 32 van die Wet (welk artikel als art. 80 nu is overgenomen in de Grondwet van 1896) dien toestand, als door de Grondwet van 1858 gewild en door het Hoog Gerechtshof voor juist verklaard, heeft bestendigd, en bepaalt, dat de wettelijke kracht van Wetten en Besluiten door den Staatspresident in de *Staatscourant* gepubliceerd niet kan worden betwist—dus ook niet door de Rechterlijke Macht—terwijl alleen het Volk de macht heeft zich tegen eene Wet of Besluit uit te spreken;

En verder overwegende, dat nu kort geleden eene meerderheid in het Hoog Gerechtshof, namelijk twee rechters, heeft beslist, dat de vroegere uitspraken van het Hoog Gerechtshof in deze onjuist waren en heeft neergelegd, dat Volksraadsbesluiten geen kracht van Wet hebben en dat het Hoog Gerechtshof tevens de bevoegdheid bezit te weigeren eene Wet toe te passen, wanneer het van oordeel is, dat die Wet, naar vorm of inhoud, strijdt met de Grondwet van 1858;

Overwegende dat door die beslissing de rechtszekerheid in dezen Staat grootelijks is benadeeld doordien, zooals gezegd, het grootste deel onzer Wetgeving op Volksraadsbesluiten berust en verscheidene Wetten en Volksraadsbesluiten juist zijn bedoeld als veranderingen van de Grondwet;

Overwegende dat de Eerste Volksraad niet lijdelijk mag toezien,

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that the People have approved of that Law after the same had been published three times in succession;

Considering that art. 32 of the said Law (which article has been embodied in the Grondwet of 1896 as art. 80) has confirmed the position intended by the Grondwet of 1858, and declared valid by the High Court of Justice, and has affirmed that the legal force of Laws and Resolutions published in the *Staatscourant* by the State President can not be disputed,—and therefore also that it is not competent for the Judicial Power to dispute the same,—while the People alone have the power to declare themselves against any Law or Resolution;

And considering further that not long ago a majority of the High Court of Justice, in the persons of two judges, have decided that the previous judgments of the High Court of Justice in this matter were invalid, and have laid it down that resolutions of the Volksraad are not of legal force, and that moreover it is competent for the High Court of Justice to refuse to apply a Law when it is of opinion that the form or substance of such Law is in conflict with the Grondwet of 1858;

Considering that by that decision the validity of the laws of this State has been rendered very doubtful, because, as has been said, the greater part of our legislation is based on resolutions of the Volksraad, and because several laws and resolutions of the Volksraad have had for their express object alterations in the Grondwet;

Considering that the First Volksraad may not remain

wanneer het Hoog Gerechtshof weigert recht te spreken volgens 's lands wetten en het zijn plicht is het publiek te beschermen in overeenstemming met den wil van het Volk ;

Overwegende dat art. 86 [1] van de Grondwet van 1896—over het bijeenroepen van een Bijzonder Hof—in deze zaak niet van toepassing is ; en

Ten slotte overwegende dat deze Wet, hoewel niet in termen van art. 12 der Grondwet drie maanden van te voren gepubliceerd, dadelijk in behandeling moet worden genomen, aangezien zij geen uitstel kan lijden ;—

Wordt hierbij besloten deze Wet dadelijk in behandeling te nemen, niettegenstaande zij geen drie maanden van te voren is gepubliceerd geweest, aangezien zij geen uitstel kan lijden ;

En wordt hierbij vastgesteld en bepaald als volgt :

ART. 1. Zoolang het Volk niet duidelijk ten genoege van den Eersten Volksraad heeft te kennen gegeven, dat het den bestaanden toestand wenscht te veranderen, moeten de bestaande en nog te maken Wetten en Volksraadsbesluiten door de Rechterlijke Macht worden erkend en geëerbiedigd in overeenstemming met art. 80 der Grondwet van 1896 en heeft de Rechterlijke Macht niet de bevoegdheid te weigeren een Wet of Volksraadsbesluit toe te passen, omdat die Wet of dat besluit naar het oordeel van den rechter, naar vorm of inhoud, strijdt met de Grondwet ; m.a.w. de Rechterlijke Macht zal niet de bevoegdheid

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passive when the High Court of Justice refuses to pronounce judgment according to the Laws of the country, and that it is their duty to protect the public in accordance with the will of the People ;

Considering that art. 86 [1] of the Grondwet of 1896—about the summoning of a Special Court—does not apply to the present matter ; and

Finally, considering that this Law, although not first published for three months in terms of art. 12 of the Grondwet, must be dealt with immediately as it can brook no delay ;—

Therefore it is hereby resolved to proceed at once to deal with this Law notwithstanding the fact that it has not been published beforehand for three months, as it can brook no delay ;

And it is hereby affirmed and laid down as follows :

ART. 1. So long as the People have not signified, plainly and to the satisfaction of the First Volksraad, their wish that the existing position shall be changed, it shall be the duty of the Judicial Power to acknowledge and respect the Laws and Resolutions of the Volksraad now existing or to be passed hereafter, in accordance with art. 80 of the Grondwet of 1896 ; and it is not competent for the Judicial Power to refuse to apply a Law or a Resolution of the Volksraad on the ground that such Law or Resolution is, as regards its form or substance, in the opinion of the Judge, in conflict with the Grondwet ;

[1] This article was a repetition of arts. 1–5 of the resolution of the First Volksraad dated 23 Aug. 1894. *Vide* above, p. 502.

hebben en heeft die bevoegdheid ook nooit gehad, noch bij de Grondwet, noch bij eenige andere wet, zich het zoogenoemd toetsingsrecht aan te matigen.

2. De Rechters, de Landdrosten en andere leden van de Rechterlijke Macht zullen in het vervolg vóór het aanvaarden hunner betrekking den volgenden eed afleggen :

" Ik beloof en zweer plechtig trouw aan het volk en de wetten dezer Republiek, in mijne betrekking en ambt rechtvaardig, billijk, zonder aanzien des persoons, overeenkomstig de wetten en Volksraadsbesluiten en naar mijn beste kennis en geweten te zullen handelen ; mij geen zoogenoemd toetsignsrecht te zullen aanmatigen ; " [enz.]

De leden van het Hoog Gerechtshof en Landdrosten leggen den eed af in handen van den Staatspresident en leden van den Uitvoerenden Raad.

3. De Rechter, die niet handelt overeenkomstig art. 1 dezer wet, zal geacht worden zich te hebben schuldig gemaakt aan een ambtsmisdrijf, als bedoeld in art. 86 der Grondwet van 1896.

4. ZHEd. de Staatspresident wordt hierbij gemachtigd de tegenwoordige leden van de Rechterlijke Macht te vragen of te doen vragen of zij het beschouwen te zijn overeenkomstig hun eed en hun plicht recht te spreken volgens de bestaande en later te maken Wetten en

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in other words, it is not competent, nor has it ever been competent, for the Judicial Power, either by the Grondwet or by any other law, to arrogate to itself the so-called right of testing.

2. The Judges, the Landdrosts and other members of the Judicial Power shall in future, before entering on their office, take the following oath :

" I promise and swear solemnly to be true to the people and the Laws of this Republic, to act in my office and official capacity in a manner just, fair and without respect of persons, in accordance with the Laws and Resolutions of the Volksraad, to the best of my knowledge and according to the dictates of my conscience ; not to arrogate to myself any so-called right of testing ; " [etc.]

The members of the High Court of Justice and the Landdrosts shall take the oath before the State President and the members of the Executive Council.

3. Any judge who does not act in accordance with the provisions of art. 1 of this law shall be considered to be guilty of an offence in his official capacity as mentioned in art. 86 of the Grondwet of 1896.

4. The State President is hereby authorised to ask the present members of the Judicial Power, or to cause them to be asked, whether they consider it compatible with their oath and their duty to pronounce judgment in accordance with the Laws and Resolutions of the Volksraad now in force or hereafter to be passed, and not to arrogate to themselves the

Volksraadsbesluiten en zich het zoogenoemd toetsingsrecht niet aan te matigen en verder wordt ZHEd. opgedragen die leden, waarvan ZHEd. òf een ontkennend of een zijns inziens onvoldoend òf binnen den gestelden tijd in het geheel geen antwoord ontvangt, uit hunne betrekking te ontslaan.

5. Onder Volksraadsbesluiten worden in deze Wet verstaan zoowel Besluiten van den ouden Volksraad als Besluiten van den Eersten Volksraad en ook de Besluiten van den Tweeden Volksraad, die volgens art. 31, Wet No. 4, 1890,[1] thans art. 79 der Grondwet van 1896, van kracht zijn. Onder 't Volk zullen worden verstaan de volstemgerechtigde burgers der Zuid-Afr. Republiek.

6. Deze Wet zal niet aantasten de rechten eventueel door vonnissen van het Hoog Gerechtshof vóór deze Wet verkregen.

7. Deze Wet zal in werking treden dadelijk na publicatie in de *Staatscourant*.

Locale Wetten der Z.A. Rep. VIII. 5.

No. 232. EERSTE VOLKSRAADSBESLUIT, 22 JULI 1897.[2]

[Geen ambtenaar mag zich verkiesbaar stellen voor de betrekking van Staatspresident.]

Locale Wetten der Z.A. Rep. VIII. 170.

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so-called right of testing; and the State President is likewise instructed to dismiss from office any member from whom he may receive an answer in the negative, or one which in his opinion is not satisfactory, or no answer at all within the period specified.

5. By the term, "resolutions of the Volksraad," shall be understood, for the purposes of this Law, resolutions of the old Volksraad as well as resolutions of the First Volksraad and resolutions of the Second Volksraad which according to art. 31 of Law No. 4, 1890,[1] now art. 79 of the Grondwet of 1896, have the force of law. By the term, "the People," shall be understood the burghers of the South African Republic possessing the full franchise.

6. This Law shall not interfere with rights procured through judgments of the High Court of Justice prior to the passing of this Law.

7. This Law shall take effect immediately on its publication in the *Staatscourant*.

No. 232. RESOLUTION OF THE FIRST VOLKSRAAD, 22 JULY 1897.[2]

[No official may accept nomination for the post of State President.]

[1] *Vide* above, p. 494.

[2] Repealed by Procl. No. 34 of 1901.

No. 233. EERSTE VOLKSRAADSBESLUIT, 27 AUG. 1897.

ART. 981.[1] [Het volgend commissie-rapport wordt goedgekeurd :]

De Commissie [geeft] uwe Vergadering in overweging, of het niet wenschelijk zou wezen, dat de Superintendent van Naturellenzaken alleen hoofd-ambtenaar en geen lid van den Uitvoerenden Raad zal zijn, omreden de Commissie het niet raadzaam acht, dat een ambtenaar die voor zijn leven is aangesteld als zoodanig als lid van den Uitvoerenden Raad zitting neemt.

Locale Wetten der Z.A. Rep. VIII. 173.

No. 233. RESOLUTION OF THE FIRST VOLKSRAAD, 27 AUGUST 1897.

ART. 981.[1] [The following report of the Committee is adopted :]

The Committee submits for the consideration of your Assembly the question whether it would not be desirable that the Superintendent of Native Affairs shall be merely a chief official and not a member of the Executive Council as well; for the Committee does not deem it advisable that an official who is appointed for life shall be an *ex officio* member of the Executive Council.

No. 234. ANNEXATION OF THE SOUTH AFRICAN REPUBLIC. [1 Sept. 1900.]

PROCLAMATION No. 15 OF 1900.

WHEREAS certain Territories in South Africa, hitherto known as the South African Republic, have been conquered by Her Majesty's Forces, and it has seemed expedient to Her Majesty that the said Territories should be annexed to, and should henceforth form part of Her Majesty's Dominions, and that I should provisionally and until Her Majesty's pleasure is more fully known, be appointed Administrator of the said Territories, with power to take all such measures, and to make and enforce such Laws as I may deem necessary for the peace, order, and good government of the said Territories.

Now, therefore, I, Frederick Sleigh, Baron Roberts of Kandahar and Waterford, K.P., [etc.] by Her Majesty's Command, and in virtue of the power and authority conferred on me in that behalf by Her Majesty's Royal Commission, dated the fourth day of July, nineteen hundred, in accordance with Her Majesty's instructions thereby and otherwise signified to me, from and after the publication hereof, do proclaim that the Territories known as the South African Republic are annexed to and form part of Her Majesty's Dominions, and that pro-

[1] Repealed by Procl. No. 34 of 1901.

visionally, and until Her Majesty's pleasure is fully declared, the said Territories will be administered by me with such powers as aforesaid. Her Majesty is pleased to direct that the new Territories shall henceforth be known as The Transvaal.

Statute Law of the Transvaal, 1900–6, II. 441.

VEREENIGING PEACE TREATY, 31ST MAY 1902.

[See No. 173.]

THE TRANSVAAL: ADMINISTRATION OF JUSTICE, 1902–1910.

[District Courts of Resident Magistrates on the model of the Cape Courts were established by Proclamation No. 21 of 1902 (10 April), but with greater powers. Their jurisdiction in civil cases extended to those founded upon liquid documents to an amount of £500, to illiquid cases in which the amount claimed did not exceed £250, and to other cases where the sum or matter in dispute did not exceed £100. Their criminal jurisdiction included all crimes and offences not punishable by death, transportation or banishment from the Colony. They could sentence to fines not exceeding £75, or imprisonment for a period not exceeding six months, or whipping not exceeding twenty-five lashes. Several laws of a later date modified the provisions of this Ordinance. Among those to be noted are Ord. No. 12 of 1904, Act No. 18 of 1907, and Act No. 30 of 1908.

Proclamation No. 14 of 1902 (10 April) established a "High Court of the Transvaal" to consist of at least four judges with the usual jurisdiction and powers. The judges held office during good behaviour and could be dismissed by the Crown, or by the Governor subject to the Crown's approval, on misconduct being proved. The High Court could review sentences of the inferior courts, and in certain cases appeals were allowed from its decisions to the Privy Council. The Roman-Dutch Law was retained. The same Proclamation set up a superior court for Johannesburg called the "Witwatersrand District Court," in which there sat one judge with the same jurisdiction and powers as those exercised by the High Court except in matters of appeal. Ordinance No. 2 of 1902 (4 July) changed the names of these two courts respectively to "Supreme Court of the Transvaal," and "Witwatersrand High Court." Ordinance No. 38 of 1902 (21 Nov.) provided for the withdrawal of Martial Law from the Colony. Circuit Courts were provided for by Ordinance No. 10 of 1903 (27 Feb.). Like the Rand High Court they had no appellate jurisdiction. Otherwise they exercised the same authority as the Supreme Court. Like the Rand High Court they exercised some of their powers only subject to appeal to the Supreme Court. Ordinance No. 31 of 1904 provided that one judge could constitute a court, to be styled a Divisional Court, if parties in a case consented to this, or if by order of the Supreme Court any action was remitted to be so heard. The chief Ordinance dealing with juries is No. 10 of 1902.

THE TRANSVAAL: MUNICIPAL GOVERNMENT, 1902–1910.

[Ordinance No. 38 of 1903 provided for the election of members of councils of municipalities then existing or still to be established. Electors were white male or female British subjects of 21 years of age and older, who were owners of rateable property valued at £100 or occupiers of property valued at £300 or of the annual value of £24. Male voters could be elected councillors to hold office for three years. The Councillors were to elect one of their number to be a mayor, to whom allowances could be made for expenditure incurred. The duties and functions of the councils were defined by the next important ordinance, No. 58 of 1903; and several other important laws followed. Series of special provisions were enacted for Pretoria and Johannesburg from 1902 onwards.]

THE INTER-COLONIAL COUNCIL.

[By Order in Council dated 20th May 1903, an Inter-Colonial Council, common to the Orange River Colony and to the Transvaal, was established.[1] The object of this body was to avoid a division of the Central South African Railway system which extended over both Colonies; but its functions included also the control of expenditure connected with the South African Constabulary and other matters. The arrangement was rendered liable to termination on the motion of either Colony, after six months' notice, subsequent to the establishment of responsible government in both Colonies. Such notice was given by both governments early in December 1907, and the Council ceased to exist on 2nd June 1908. Thereupon the C.S.A. Railways were worked as a joint system.]

[1] [Cd. 1641.]

CHAPTER V.

THE UNION OF SOUTH AFRICA.

No. 235. SOUTH AFRICA ACT, 1909.

[9 EDW. 7, CH. 9.]

[This Act was passed through both Houses of the Imperial Parliament exactly as it was forwarded after the South African Convention was held. It was assented to by King Edward VII. on 20th September 1909; and a Royal Proclamation of the 2nd December 1909 declared the date of the establishment of Union to be the 31st May 1910.]

ARRANGEMENT OF SECTIONS.

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1. Short title.
2. Definitions.
3. Application of Act to King's successors.

II. THE UNION.

4. Proclamation of Union.
5. Commencement of Act.
6. Incorporation of Colonies into the Union.
7. Application of Colonial Boundaries Act, etc.

III. EXECUTIVE GOVERNMENT.

8. Executive power.
9. Governor-General.
10. Salary of Governor-General.
11. Application of Act to Governor-General.
12. Executive Council.
13. Meaning of Governor-General in Council.
14. Appointment of Ministers.
15. Appointment and removal of officers.
16. Transfer of executive powers to Governor-General in Council.
17. Command of naval and military forces.
18. Seat of Government.

IV. PARLIAMENT.

19. Legislative power.
20. Sessions of Parliament.
21. Summoning of first Parliament.
22. Annual session of Parliament.
23. Seat of Legislature.

Senate.

Section.

24. Original constitution of Senate.
25. Subsequent constitution of Senate.
26. Qualifications of senators.
27. Appointment and tenure of office of President.
28. Deputy President.
29. Resignation of senators.
30. Quorum.
31. Voting in the Senate.

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32. Constitution of House of Assembly.
33. Original number of members.
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36. Application of existing qualifications.
37. Elections.
38. Commission for delimitation of electoral divisions.
39. Electoral divisions.
40. Method of dividing provinces into electoral divisions.
41. Alteration of electoral divisions.
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43. Date from which alteration of electoral divisions to take effect.
44. Qualifications of members of House of Assembly.
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59. Powers of Parliament.
60. Money Bills.
61. Appropriation Bills.
62. Recommendation of money votes.
63. Disagreements between the two Houses.
64. Royal Assent to Bills.
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68. Appointment and tenure of office of provincial administrators.
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72. Application of sections 53 to 55 to provincial councillors.
73. Tenure of office by provincial councillors.
74. Sessions of provincial councils.
75. Chairman of provincial councils.
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X. AMENDMENT OF ACT.
152. Amendment of Act.
SCHEDULE.

AN ACT TO CONSTITUTE THE UNION OF SOUTH AFRICA.

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. PRELIMINARY.

1. This Act may be cited as the "South Africa Act, 1909."

2. In this Act, unless it is otherwise expressed or implied, the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the words "Houses of Parliament," "House of Parliament," or "Parliament," shall be taken to mean the Parliament of the Union.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

II. The Union.

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the Colonies, shall be united in a Legislative Union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a governor-general for the Union.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

6. The colonies mentioned in section four shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective colonies at the establishment of the Union.

7. Upon any colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies, as being self-governing colonies or colonies with responsible government, shall cease to apply to that colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

III. Executive Government.

8. The Executive Government of the Union is vested in the King, and shall be administered by His Majesty in person or by a governor-general as His representative.

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to ad-

minister the government of the Union. The King may authorise the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

12. There shall be an Executive Council to advise the Governor-General in the Government of the Union, and the members of the council shall be chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

13. The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

14. The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General in Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by this Act or by a law of Parliament to some other authority.

16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor in Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General in Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

17. The command in chief of the naval and military forces within the Union is vested in the King or in the Governor-General as His representative.

18. Save as in section twenty-three excepted, Pretoria shall be the seat of Government of the Union.

IV. PARLIAMENT.

19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

20. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone: provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General in Council.

21. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

22. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

23. Cape Town shall be the seat of the Legislature of the Union.

Senate.

24. For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provinces, be as follows:

(i) Eight senators shall be nominated by the Governor-General in Council, and for each original province eight senators shall be elected in the manner hereinafter provided;

(ii) The senators to be nominated by the Governor-General in Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General in Council shall nominate another person to be a senator, who shall hold his seat for ten years;

(iii) After the passing of this Act, and before the day appointed for the establishment of the Union,

the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made—

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(ii) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General in Council shall make regulations for the joint election of senators prescribed in this section.

26. The qualifications of a senator shall be as follows:

He must—

(*a*) be not less than thirty years of age;

(*b*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*c*) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;

(*d*) be a British subject of European descent;

(*e*) in the case of an elected senator, be the registered owner of immovable property within the Union

of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

27. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.

28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

30. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

House of Assembly.

32. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

33. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:

Cape of Good Hope	Fifty-one.
Natal	Seventeen.
Transvaal	Thirty-six.
Orange Free State	Seventeen.

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the House of Assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of

ten years has elapsed after the establishment of the Union, whichever is the longer period.

34. The number of members to be elected in each province, as provided in section thirty-three, shall be increased from time to time as may be necessary in accordance with the following provisions:

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of nineteen hundred and four, by the total number of members of the House of Assembly as constituted at the establishment of the Union:

(ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this Act:

(iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of nineteen hundred and four, and, in the case of any province where an increase is shown, as compared with the census of nineteen hundred and four, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be:

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess:

(v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding subsections reaches the total of one hundred and fifty, such total shall not be further increased unless and until Parliament otherwise provides; and subject to the provisions of the last preceding section the distribution of members among the provinces shall be such that the proportion

between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained at the last preceding census, shall as far as possible be identical throughout the Union:

(vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards not being members of His Majesty's regular forces on full pay:

(vii) For the purposes of this Act the number of European male adults, as ascertained at the census of nineteen hundred and four, shall be taken to be—

For the Cape of Good Hope	167,546
For Natal	34,784
For the Transvaal	106,493
For the Orange Free State	41,014

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths

or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General in Council.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor in Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor in Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor in Council of the Colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General in Council, and any vacancies shall be filled by him.

39. The commission shall divide each province into electoral divisions, each returning one member.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the

province, as ascertained at the last registration of voters, by the number of members of the House of Assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of subsection (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the province.

(3) The Commissioners shall give due consideration to—

(*a*) community or diversity of interests ;
(*b*) means of communication ;
(*c*) physical features ;
(*d*) existing electoral boundaries ;
(*e*) sparsity or density of population ;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

41. As soon as may be after every quinquennial census, the Governor-General in Council shall appoint a commission consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act in regard to the original division.

42. (1) The joint commission constituted under section thirty-eight, and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the Governor-General in Council—

(*a*) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division :
(*b*) a map or maps showing the electoral divisions into which the provinces have been divided :
(*c*) such further particulars as they consider necessary.

(2) The Governor-General in Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General in Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral

divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

43. Any alteration in the number of members of the House of Assembly to be elected in the several provinces, and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

44. The qualifications of a member of the House of Assembly shall be as follows:

He must—

(*a*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*b*) have resided for five years within the limits of the Union as existing at the time when he is elected;

(*c*) be a British subject of European descent.

For the purposes of this section, residence in a colony before its incorporation in the Union shall be treated as residence in the Union.

45. Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

46. The House of Assembly shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

48. A member may, by writing under his hand addressed to the Speaker, or, if there is no Speaker, or if the Speaker is absent from the Union, to the Governor-General, resign his seat, which shall thereupon become vacant.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the

Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

Both Houses of Parliament.

51. Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the following form:

Oath.

I, *A. B.*, do swear that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law. So help me God.

Affirmation.

I, *A. B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: Provided that every minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who—

(*a*) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

(*b*) is an unrehabilitated insolvent; or

(*c*) is of unsound mind, and has been so declared by a competent court; or

(*d*) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit

under the Crown for the purposes of this subsection :

(1) a minister of State for the Union;

(2) a person in receipt of a pension from the Crown;

(3) an officer or member of His Majesty's naval or military forces on retired or half pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

54. If a senator or member of the House of Assembly—

(*a*) becomes subject to any of the disabilities mentioned in the last preceding section; or

(*b*) ceases to be qualified as required by law; or

(*c*) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

56. Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of four hundred pounds a year, to be reckoned from the date on which he takes his seat: Provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of three pounds: Provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

58. Each House of Parliament may make rules and orders

with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall, as far as practicable, apply.

Powers of Parliament.

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bill so as to increase any proposed charges or burden on the people.

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

62. The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the Session in which such vote, resolution, address, or Bill is proposed.

63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House of Assembly and upon amendments, if

any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

64. When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent, or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading "House of Assembly," and all Bills abolishing provincial councils or abridging the powers conferred on provincial councils under section eighty-five, otherwise than in accordance with the provisions of that section, shall be so reserved. The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

65. The King may disallow any law within one year after it has been assented to by the Governor-General, and such disallowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

66. A Bill reserved for the King's pleasure shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General for the King's Assent, the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's Assent.

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General, or having been reserved for the King's pleasure shall have received his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by

the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

V. The Provinces.

Administrators.

68. (1) In each province there shall be a chief executive officer appointed by the Governor-General in Council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the administrator of any province, the Governor-General in Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General in Council may from time to time appoint a deputy administrator to execute the office and functions of the administrator during his absence, illness, or other inability.

69. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

Provincial Councils.

70. (1) There shall be a provincial council in each province consisting of the same number of members as are elected in the province for the House of Assembly: Provided that, in any province whose representatives in the House of Assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election

of members of the House of Assembly: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions, shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section thirty-seven applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

72. The provisions of sections fifty-three, fifty-four, and fifty-five, relative to members of the House of Assembly, shall *mutatis mutandis* apply to members of the provincial councils: Provided that any member of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council.

73. Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial council as he may think fit, and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General in council shall express his disapproval thereof in writing addressed to the administrator.

76. The members of the provincial council shall receive such allowances as shall be determined by the Governor-General in Council.

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or pro-

ceeding in any court by reason of his speech or vote in such council.

Executive Committees.

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General in Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote.

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor in Council, or any minister of the Colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances.

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and,

in case of an equality of votes, the administrator shall have also a casting vote. Subject to the approval of the Governor-General in Council, the executive committee may make rules for the conduct of its proceedings.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the Governor-General in Council under the provisions of this Act, to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the Governor-General in Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

Powers of Provincial Councils.

85. Subject to the provisions of this Act and the assent of the Governor-General in Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say) :

(i) Direct taxation within the province in order to raise a revenue for provincial purposes :
(ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General in Council and in accordance with regulations to be framed by Parliament :
(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides :
(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament :
(v) The establishment, maintenance, and management of hospitals and charitable institutions :
(vi) Municipal institutions, divisional councils, and other local institutions of a similar nature :
(vii) Local works and undertakings within the province, other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to pro-

vide for its construction by arrangement with the provincial council or otherwise :

(viii) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces :

(ix) Markets and pounds :

(x) Fish and game preservation :

(xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section :

(xii) Generally all matters which, in the opinion of the Governor-General in Council, are of a merely local or private nature in the province :

(xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

86. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

87. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

89. A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the Governor-General in Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General in Council for particular purposes, then for such purposes, but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator : Provided that, until the expiration of one

month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province.

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General in Council for his assent. The Governor-General in Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General in Council, he makes known by proclamation that it has received his assent.

91. An ordinance assented to by the Governor-General in Council and promulgated by the administrator shall, subject to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

Miscellaneous.

92. (1) In each province there shall be an auditor of accounts to be appointed by the Governor-General in Council.

(2) No such auditor shall be removed from office except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General in Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General in Council and approved by Parliament, and no warrant signed by the administrator authorising the issuing of money shall have effect unless countersigned by such auditor.

93. Notwithstanding anything in this Act contained, all powers, authorities, and functions lawfully exercised at the

establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

94. The seats of provincial government shall be:

For the Cape of Good Hope .	. Cape Town.
For Natal . . .	. Pietermaritzburg.
For the Transvaal . .	. Pretoria.
For the Orange Free State .	. Bloemfontein.

VI. The Supreme Court of South Africa.

95. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the ordinary judges of appeal, and the other judges of the several divisions of the Supreme Court of South Africa in the provinces.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two ordinary judges of appeal, and two additional judges of appeal. Such additional judges of appeal shall be assigned by the Governor-General in Council to the Appellate Division from any of the provincial or local divisions of the Supreme Court of South Africa, but shall continue to perform their duties as judges of their respective divisions when their attendance is not required in the Appellate Division.

97. The Governor-General in Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any ordinary or additional judge of appeal, appoint any other judge of the Supreme Court of South Africa to act temporarily as such chief justice, ordinary judge of appeal, or additional judge of appeal, as the case may be.

98. (1) The several supreme courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

(2) The court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as superior courts, shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters:

(*a*) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party:

(*b*) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall, *mutatis mutandis*, have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

99. All judges of the supreme courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective provinces.

100. The Chief Justice of South Africa, the ordinary judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union shall be appointed by the Governor-General in Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

101. The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General in Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General in Council may, in case he shall consider that the number of judges of such court may with advantage to the public interest be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

103. In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have

been made to the Supreme Court of any of the Colonies from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such Superior Court, or the special reference by any such court of any point of law in a criminal case, shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King in Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King in Council, but nothing herein contained shall be construed to impair any right which the King in Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King in Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the significance of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to His Majesty in Council from any judgment given by the Appellate Division of the Supreme

Court under or in virtue of the Colonial Courts of Admiralty Act, 1890.[1]

107. The Chief Justice of South Africa and the ordinary judges of appeal may, subject to the approval of the Governor-General in Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

108. The chief justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General in Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

110. On the hearing of appeals from a court consisting of two or more judges, five judges of the Appellate Division shall form a quorum, but, on the hearing of appeals from a single judge, three judges of the Appellate Division shall form a quorum. No judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province.

112. The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly

[1] 53 & 54 Vict. c. 27.

heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The Governor-General in Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King in Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

VII. Finance and Railways.

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General in Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General in Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports, and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General in Council, and such fund shall be appropriated by Parliament for the purposes of the

Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

118. The Governor-General in Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province:

(*a*) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908–9, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight;

(*b*) such further sums as the Governor-General in Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General in Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But, until the expiration of two months after the first meeting of Parliament, the Governor-General in Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

122. Crown lands, public works, and all property throughout the Union, movable, or immovable, and all rights of whatever description belonging to the several Colonies at the

establishment of the Union, shall vest in the Governor-General in Council subject to any debt or liability specifically charged thereon.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General in Council.

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General in Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

126. Subject to the authority of the Governor-General in Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a board consisting of not more than three commissioners, who shall be appointed by the Governor-General in Council, and a minister of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the

total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections one hundred and thirty and one hundred and thirty-one. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General in Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Con-

solidated Revenue Fund to the Railway and Harbour Fund; Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

131. If the Board shall be required by the Governor-General in Council or under any Act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

132. The Governor-General in Council shall appoint a Controller and Auditor-General who shall hold office during good behaviour: provided that he shall be removed by the Governor-General in Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: provided further that when Parliament is not in session the Governor-General in Council may suspend such officer on the ground of incompetence or misbehaviour; and, when and so often as such suspension shall take place, a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and, if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer, he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension and shall declare the office of Controller and Auditor-General to be, and it shall thereupon become, vacant. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General in Council by regulations framed in that behalf.

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of

their ceasing to be the seats of government of their respective colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. The Commission appointed under section one hundred and eighteen shall, after due inquiry, report to the Governor-General in Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum on the respective municipal debts of such towns as existing on the thirty-first January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point, and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Cape Town shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General in Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

VIII. General.

134. The election of senators and of members of executive committees of the provincial councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General in Council, or, in the case of the first election of the Senate, the Governor in Council of each of the Colonies, shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective provinces until repealed or amended by Parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved

or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

138. All persons who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the Union.

139. The administration of justice throughout the Union shall be under the control of a minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers, authorities, and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General in Council, and styled the Attorney-General of the province, who shall also discharge such other duties as may be assigned to him by the Governor-General in Council: Provided that in the province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union.

140. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

141. (1) As soon as possible after the establishment of the Union, the Governor-General in Council shall appoint a public service commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The Governor-General in Council may after such commission has reported assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the Governor-General

in Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

142. After the establishment of the Union the Governor-General in Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General in Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any colony for the purpose of reserves for native locations shall vest in the Governor-General in Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exerciseable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or

in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union.

IX. New Provinces and Territories.

149. Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition of the provincial council of every province whose boundaries are affected thereby.

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King, and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General in Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

X. Amendment of Act.

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section, or in sections thirty-three and thirty-four (until the number of members of the House of Assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections thirty-five and one hundred

and thirty-seven, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

SCHEDULE.

1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General in Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: Provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same session request the Governor-General in Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General in Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories.

3. The members of the commission shall be appointed by the Governor-General in Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of their terms of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General in Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the Governor-General in Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the commission to advise the Prime Minister upon all matters relating to the

general conduct of the administration of, or the legislation for, the said territories. The Prime Minister, or another minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman shall preside at all meetings of the commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the commission shall consist of four or more members, three of them shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission, and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the commission or proposes to take some action contrary to their advice, he shall state his views to the commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General in Council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the Governor-General in Council, or action not in accordance with their advice has been taken by the Governor-General in Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General in Council shall transmit to the commission a minute recording his opinion that the publication of

such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General in Council shall appoint a resident commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be issued by the Governor-General in Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General in Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General in Council, and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory or by the Union Government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of intoxicating liquor to natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: Provided that the Governor-General in Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of the administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General in Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General in Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King in Council from any court of the territories, such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General in Council, be laid before both Houses of Parliament.

25. All bills to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

APPENDIX A.

No. 236. CHARTER OF THE BRITISH SOUTH AFRICA COMPANY. [29 Oct. 1889.]

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all whom these presents shall come, greeting.

WHEREAS a Humble Petition has been presented to Us in Our Council by the Most Noble James, Duke of Abercorn, . . . ; the Most Noble Alexander William George, Duke of Fife, . . . ; the Right Honourable Edric Frederick, Lord Gifford, V.C. ; Cecil John Rhodes, of Kimberley, in the Cape Colony, Member of the Executive Council, and of the House of Assembly of the Colony of the Cape of Good Hope; Alfred Beit, of 29 Holborn Viaduct, London, merchant ; Albert Henry George Grey, of Howick, Northumberland, Esquire; and George Cawston, of 18 Lennox Gardens, London, Esquire, Barrister-at-Law.

And whereas the said Petition states amongst other things :

That the Petitioners and others are associated for the purpose of forming a Company or Association, to be incorporated, if to Us should seem fit, for the objects in the said Petition set forth, under the corporate name of The British South Africa Company.

That the existence of a powerful British company, controlled by those of Our subjects in whom We have confidence, and having its principal field of operations in that region of South Africa lying to the North of Bechuanaland and to the west of Portuguese East Africa, would be advantageous to the commercial and other interests of Our subjects in the United Kingdom and in Our Colonies.

That the Petitioners desire to carry into effect divers concessions and agreements which have been made by certain of the chiefs and tribes inhabiting the said region, and such other concessions, agreements, grants, and treaties as the Petitioners may hereafter obtain within the said region or elsewhere in Africa, with the view of promoting trade, commerce, civilisation, and good government (including the regulation of liquor traffic with the natives) in the territories which are or may be comprised, or referred to in such concessions, agreements, grants, and treaties as aforesaid.

That the Petitioners believe that if the said concessions, agreements, grants, and treaties can be carried into effect, the condition of the natives inhabiting the said territories will be materially improved and their civilisation advanced, and an organisation established which will tend to the suppression of the slave trade in the said territories, and to the opening up of the said territories to the immigration of Europeans, and to the lawful trade and commerce of Our subjects and of other nations.

That the success of the enterprise in which the Petitioners are engaged would be greatly advanced if it should seem fit to Us to grant them Our Royal Charter of incorporation as a British Company under the said name or title, or such other name or title, and with such powers,

as to Us may seem fit for the purpose of more effectually carrying into effect the objects aforesaid.

That large sums of money have been subscribed for the purpose of the intended Company by the Petitioners and others, who are prepared also to subscribe or to procure such further sums as may hereafter be found requisite for the development of the said enterprise, in the event of Our being pleased to grant to them Our Royal Charter of incorporation as aforesaid.

Now, therefore We, having taken the said Petition into Our Royal consideration in Our Council and being satisfied that the intentions of the Petitioners are praiseworthy and deserve encouragement and that the enterprise in the Petition described may be productive of the benefits set forth therein, by Our Prerogative Royal and of Our especial grace, certain knowledge, and mere motion, have constituted, erected, and incorporated, and by this Our Charter for Us and Our Heirs and Royal successors do constitute, erect, and incorporate into one body politic and corporate by the name of The British South Africa Company, the said James Duke of Abercorn, Alexander William George Duke of Fife, Edric Frederick Lord Gifford, Cecil John Rhodes, Alfred Beit, Albert Henry George Grey, and George Cawston, and such other persons and such bodies as from time to time become and are members of the body politic and corporate by these presents constituted, erected, and incorporated, with perpetual succession and a common seal, with power to break, alter, or renew the same at discretion and with the further authorities, powers, and privileges conferred, and subject to the conditions imposed by this Our Charter: And We do hereby accordingly will, ordain, give, grant, constitute, appoint, and declare as follows (that is to say):

I. The principal field of the operations of The British South Africa Company (in this our Charter referred to as "the Company") shall be the region of South Africa lying immediately to the north of British Bechuanaland, and to the north and west of the South African Republic, and to the west of the Portuguese Dominions.

II. The Company is hereby authorised and empowered to hold, use, and retain for the purposes of the Company and on the terms of this Our Charter, the full benefit of the concessions and agreements made as aforesaid, so far as they are valid, or any of them, and all interests, authorities, and powers comprised or referred to in the said concessions and agreements. Provided always that nothing herein contained shall prejudice or affect any other valid and subsisting concessions or agreements which may have been made by any of the chiefs or tribes aforesaid, and in particular that nothing herein contained shall prejudice or affect certain concessions granted in and subsequent to the year 1880 relating to the territory usually known as the district of the Tati; nor shall anything herein contained be construed as giving any jurisdiction, administrative or otherwise, within the said district of the Tati, the limits of which district are as follows, viz., from the place where the Shasi River rises to its junction with the Tati and Ramaquaban Rivers, thence along the Ramaquaban River to where it rises and thence along the watershed of those Rivers.

III. The Company is hereby further authorised and empowered, subject to the approval of one of Our Principal Secretaries of State (herein referred to as "Our Secretary of State") from time to time, to acquire by any concession, agreement, grant, or treaty, all or any rights, interests, authorities, jurisdictions, and powers of any kind or nature whatever, including powers necessary for the purposes of government and the preservation of public order in or for the protection of terri-

tories, lands, or property, comprised or referred to in the concessions and agreements made as aforesaid or affecting other territories, lands, or property in Africa, or the inhabitants thereof, and to hold, use, and exercise such territories, lands, property, rights, interests, authorities, jurisdictions, and powers respectively for the purpose of the Company and on the terms of this Our Charter.

IV. Provided that no powers of government or administration shall be exercised under or in relation to any such last-mentioned concession, agreement, grant, or treaty, until a copy of such concession [etc.] in such form and with such maps or particulars as Our Secretary of State approves, verified as he requires, has been transmitted to him, and he has signified his approval thereof either absolutely or subject to any conditions or reservations; and provided also that no rights, interests, authorities, jurisdictions, or powers of any description shall be acquired by the Company within the said district of the Tati as hereinbefore described, without the previous consent in writing of the owners for the time being of the concessions above referred to relating to the said district, and the approval of Our Secretary of State.

V. The Company shall be bound by and shall fulfil all and singular the stipulations on its part contained in any such concession, agreement, grant, or treaty as aforesaid, subject to any subsequent agreement affecting those stipulations approved by Our Secretary of State.

VI. The Company shall always be and remain British in character and domicile, and shall have its principal office in Great Britain, and the Company's principal representative in South Africa and the Directors shall always be natural-born British subjects or persons who have been naturalised as British subjects by or under an Act of Parliament of Our United Kingdom; but this Article shall not disqualify any person nominated a Director by this Our Charter, or any person whose Election as a Director shall have been approved by Our Secretary of State, from acting in that capacity.

VII. In case at any time any difference arises between any chief or tribe inhabiting any of the territories aforesaid and the Company, the difference shall, if Our Secretary of State so require, be submitted by the Company to him for his decision, and the Company shall act in accordance with such decision.

VIII. If at any time Our Secretary of State thinks fit to dissent from or object to any of the dealings of the Company with any foreign power, and to make known to the Company any suggestion founded on that dissent or objection, the Company shall act in accordance with such suggestion.

IX. If at any time Our Secretary of State thinks fit to object to the exercise by the Company of any authority, power, or right within any part of the territories aforesaid, on the ground of there being an adverse claim to or in respect of that part, the Company shall defer to that objection until such time as any such claim has been withdrawn or finally dealt with or settled by Our Secretary of State.

X. The Company shall, to the best of its ability, preserve peace and order in such ways and manners as it shall consider necessary, and may with that object make ordinances (to be approved by Our Secretary of State), and may establish and maintain a force of police.

XI. The Company shall, to the best of its ability, discourage and, so far as may be practicable, abolish by degrees, any system of slave trade or domestic servitude in the territories aforesaid.

XII. The Company shall regulate the traffic in spirits and other intoxicating liquors within the territories aforesaid, so as, as far as

practicable, to prevent the sale of any spirits or other intoxicating liquor to any natives.

XIII. The Company as such, or its officers as such, shall not in any way interfere with the religion of any class or tribe of the peoples of the territories aforesaid, or of any of the inhabitants thereof, except so far as may be necessary in the interests of humanity, and all forms of religious worship or religious ordinances may be exercised within the said territories and no hindrance shall be offered thereto except as aforesaid.

XIV. In the administration of justice to the said peoples or inhabitants, careful regard shall always be had to the customs and laws of the class or tribe or nation to which the parties respectively belong, especially with respect to the holding, possession, transfer, and disposition of lands and goods and testate or intestate succession thereto, and marriage, divorce, and legitimacy and other rights of property and personal rights, but subject to any British laws which may be in force in any of the territories aforesaid, and applicable to the people or inhabitants thereof.

XV. If at any time Our Secretary of State thinks fit to dissent from or object to any part of the proceedings or system of the Company relative to the peoples of the territories aforesaid, or to any of the inhabitants thereof, in respect of slavery or religion or the administration of justice, or any other matter, he shall make known to the Company his dissent or objection, and the Company shall act in accordance with his directions duly signified.

XVI. In the event of the Company acquiring any harbour or harbours, the Company shall freely afford all facilities for or to Our ships therein without payment, except reasonable charges for work done or services rendered or materials or things supplied.

XVII. The Company shall furnish annually to Our Secretary of State, as soon as conveniently may be after the close of the financial year, accounts of its expenditure for administrative purposes, and of all sums received by it by way of public revenue, as distinguished from its commercial profits, during the financial year, together with a report as to its public proceedings and the condition of the territories within the sphere of its operations. The Company shall also on or before the commencement of each financial year furnish to Our Secretary of State an estimate of its expenditure for administrative purposes, and of its public revenue (as above defined) for the ensuing year. The Company shall in addition from time to time furnish to our Secretary of State any reports, accounts, or information which he may require to be furnished.

XVIII. The several officers of the Company shall, subject to the rules of official subordination, and to any regulations that may be agreed upon, communicate freely with Our High Commissioner in South Africa, and any others Our officers, who may be stationed within any of the territories aforesaid, and shall pay due regard to any requirements, suggestions, or requests which the said High Commissioner or other officers shall make to them or any of them, and the Company shall be bound to enforce the observance of this article.

XIX. The Company may hoist and use on its buildings and elsewhere in the territories aforesaid, and on its vessels, such distinctive flag indicating the British character of the Company as Our Secretary of State and the Lords Commissioners of the Admiralty shall from time to time approve.

XX. Nothing in this Our Charter shall be deemed to authorise the Company to set up or grant any monopoly of trade; provided that

the establishment of or the grant of concessions for banks, railways, tramways, docks, telegraphs, waterworks, or other similar undertakings or the establishment of any system of patent or copyright approved by Our Secretary of State, shall not be deemed monopolies for this purpose. The Company shall not, either directly or indirectly, hinder any Company or persons who now are, or hereafter may be, lawfully and peacefully carrying on any business, concern, or venture within the said district of the Tati hereinbefore described, but shall, by permitting and facilitating transit by every lawful means to and from the district of the Tati, across its own territories, or where it has jurisdiction in that behalf, and by all other reasonable and lawful means, encourage, assist, and protect all British subjects who now are, or hereafter may be, lawfully and peacefully engaged in the prosecution of a lawful enterprise within the said district of the Tati.

XXI. For the preservation of elephants and other game, the Company may make such regulations and (notwithstanding anything hereinbefore contained) may impose such licence duties on the killing or taking of elephants or other game as they may see fit: Provided that nothing in such regulations shall tend to diminish or interfere with any hunting rights which may have been, or may hereafter be, reserved to any native chiefs or tribes by treaty, save so far as any such regulations may relate to the establishment and enforcement of a close season.

XXII. The Company shall be subject to and shall perform and undertake all the obligations contained in or undertaken by Ourselves under any treaty, agreement, or arrangement between Ourselves and any other State or Power whether already made or hereafter to be made. In all matters relating to the observance of this article or to the exercise within the Company's territories for the time being of any jurisdiction exercisable by Us under the Foreign Jurisdiction Acts, the Company shall conform to and observe and carry out all such directions as may from time to time be given in that behalf by Our Secretary of State, and the Company shall appoint all necessary officers to perform such duties, and shall provide such Courts and other requisites as may from time to time be necessary for the administration of justice.

XXIII. The original share capital of the Company shall be 1,000,000*l.*, divided into 1,000,000 shares of 1*l.* each.

XXIV. The Company is hereby further specially authorised and empowered for the purposes of this Our Charter from time to time—

(I.) To issue shares of different classes or descriptions, to increase the share capital of the Company, and to borrow moneys by debentures or other obligations.

(II.) To acquire and hold, and to charter or otherwise deal with, steam vessels and other vessels.

(III.) To establish or authorise banking companies and other companies and undertakings or associations of every description, for purposes consistent with the provisions of this Our Charter.

(IV.) To make and maintain roads, railways, telegraphs, harbours, and any other works which may tend to the development or improvement of the territories of the Company.

(V.) To carry on mining and other industries, and to make concessions of mining, forestal, or other rights.

(VI.) To improve, develop, clear, plant, irrigate, and cultivate any lands included within the territories of the Company.

(VII.) To settle any such territories and lands as aforesaid, and to aid and promote immigration.

(VIII.) To grant lands for terms of years or in perpetuity, and either absolutely, or by way of mortgage or otherwise.

(IX.) To make loans or contributions of money or money's worth for promoting any of the objects of the Company.

(X.) To acquire and hold personal property.

(XI.) To acquire and hold (without licence in mortmain or other authority than this Our Charter) lands in the United Kingdom, not exceeding five acres in all at any one time for the purposes of the offices and business of the Company, and (subject to any local law) lands in any of Our Colonies or Possessions and elsewhere, convenient for carrying on the management of the affairs of the Company, and to dispose from time to time of any such lands when not required for that purpose.

(XII.) To carry on any lawful commerce, trade, pursuit, business, operations, or dealing whatsoever in connection with the objects of the Company.

(XIII.) To establish and maintain agencies in Our Colonies and Possessions, and elsewhere.

(XIV.) To sue and be sued by the Company's name of incorporation, as well in Our Courts in Our United Kingdom, or in Our Courts in Our Colonies or Possessions, or in Our Courts in Foreign countries or elsewhere.

(XV.) To do all lawful things, incidental or conducive to the exercise or enjoyment of the rights, interests, authorities, and powers of the Company in this Our Charter expressed or referred to, or any of them.

XXV. Within one year after the date of this Our Charter, or such extended period as may be certified by Our Secretary of State, there shall be executed by the Members of the Company for the time being a Deed of Settlement, providing so far as necessary for—

(I.) The further definition of the objects and purposes of the Company.

(II.) The classes or descriptions of shares into which the capital of the Company is divided, and the calls to be made in respect thereof, and the terms and conditions of membership of the Company.

(III.) The division and distribution of profits.

(IV.) General Meetings of the Company; the appointment by Our Secretary of State (if so required by him) of an Official Director, and the number, qualification, appointment, remuneration, rotation, removal, and powers of Directors of the Company, and of other officers of the Company.

(V.) The registration of Members of the Company, and the transfer of shares in the capital of the Company.

(VI.) The preparation of annual accounts to be submitted to the Members at a General Meeting.

(VII.) The audit of those accounts by independent auditors.

(VIII.) The making of byelaws.

(IX.) The making and using of official seals of the Company.

(X.) The constitution and regulation of Committees or Local Boards of Management.

(XI.) The making and execution of supplementary Deeds of Settlement.

(XII.) The winding up (in case of need) of the Company's affairs.

(XIII.) The government and regulation of the Company and of its affairs.

(XIV.) Any other matters usual or proper to be provided for in respect of a chartered Company.

XXVI. The Deed of Settlement shall, before the execution thereof, be submitted to and approved by the Lords of Our Council, and a certificate of their approval thereof, signed by the Clerk of Our Council, shall be endorsed on this Our Charter and be conclusive evidence of such approval, and on the Deed of Settlement, and such Deed of Settlement shall take effect from the date of such approval, and shall be binding upon the Company, its members, officers, and servants, and for all other purposes whatsoever.

XXVII. The provisions of the Deed of Settlement or of any supplementary Deed for the time being in force, may be from time to time repealed, varied, or added to by a supplementary Deed, made and executed in such manner as the Deed of Settlement prescribes: Provided that the provisions of any such Deed relative to the Official Director shall not be repealed, varied, or added to without the express approval of Our Secretary of State.

XXVIII. The Members of the Company shall be individually liable for the debts, contracts, engagements, and liabilities of the Company to the extent only of the amount, if any, for the time being unpaid on the shares held by them respectively.

XXIX. Until such Deed of Settlement as aforesaid takes effect the said James, Duke of Abercorn, shall be the President; the said Alexander William George, Duke of Fife, shall be Vice-President; and the said Edric Frederick, Lord Gifford, Cecil John Rhodes, Alfred Beit, Albert Henry George Grey, and George Cawston shall be the Directors of the Company; and may on behalf of the Company do all things necessary or proper to be done under this Our Charter by or on behalf of the Company: Provided always that, notwithstanding anything contained in the Deed of Settlement of the Company, the said James, Duke of Abercorn, Alexander William George, Duke of Fife, and Albert Henry George Grey, shall not be subject to retire from office in accordance with its provisions, but shall be and remain Directors of the Company until death, incapacity to act, or resignation, as the case may be.

XXX. And We do further will, ordain, and declare that this Our Charter shall be acknowledged by Our Governors and Our naval and military officers and Our consuls, and Our other officers in Our Colonies and Possessions, and on the high seas, and elsewhere, and they shall severally give full force and effect to this Our Charter, and shall recognise and be in all things aiding to the Company and its officers.

XXXI. And We do further will, ordain, and declare that this Our Charter shall be taken, construed, and adjudged in the most favourable and beneficial sense for, and to the best advantage of the Company, as well in Our Courts as in Our United Kingdom, and in Our Courts in Our Colonies and Possessions, and in Our Courts in Foreign countries or elsewhere, notwithstanding that there may appear to be in this Our Charter any non-recital, mis-recital, uncertainty, or imperfection.

XXXII. And We do further will, ordain, and declare that this Our Charter shall subsist and continue valid, notwithstanding any lawful change in the name of the Company or in the Deed of Settlement thereof, such change being made with the previous approval of Our Secretary of State signified under his hand.

XXXIII. And We do further will, ordain, and declare that it shall be lawful for Us, Our heirs and successors, and We do hereby expressly reserve to Ourselves, Our heirs and successors, the right and power by writing under the General Seal of the United Kingdom at the end of 25 years from the date of this Our Charter, and at the end of every succeeding period of 10 years, to add, to alter, or repeal any of the

provisions of this Our Charter, or to enact other provisions in substitution for or in addition to any of its existing provisions: Provided that the right and power thus reserved shall be exercised only in relation to so much of this Our Charter as relates to administrative and public matters. And We do further expressly reserve to Ourselves, Our heirs and successors, the right to take over any buildings or works belonging to the Company, and used exclusively or mainly for administrative or public purposes, on payment to the Company of such reasonable compensation as may be agreed, or as, failing agreement, may be settled by the Commissioners of Our Treasury. And We do further appoint, direct, and declare that any such writing under the said Great Seal shall have full effect and be binding upon the Company, its members, officers, and servants, and all other persons, and shall be of the same force, effect, and validity as if its provisions had been part of and contained in these presents.

XXXIV. Provided always, and We do further declare that nothing in this Our Charter shall be deemed or taken in anywise to limit or restrict the exercise of any of Our rights or powers with reference to the protection of any territories or with reference to the government thereof, should We see fit to include the same within Our dominions.

XXXV. And We do lastly will, ordain, and declare, without prejudice to any power to repeal this Our Charter by law belonging to Us, Our heirs and successors, or to any of Our courts, ministers, or officers independently of this present declaration and reservation, that in case at any time it is made to appear to Us in Our Council that the Company has substantially failed to observe and conform to the provisions of this Our Charter, or that the Company is not exercising its powers under the concessions, agreements, grants, and treaties aforesaid, so as to advance the interests which the Petitioners have represented to Us to be likely to be advanced by the grant of this Our Charter, it shall be lawful for Us, Our heirs and successors, and We do hereby expressly reserve and take to Ourselves, Our heirs and successors, the right and power by writing under the Great Seal of Our United Kingdom to revoke this Our Charter, and to revoke and annul the privileges, powers, and rights thereby granted to the Company.[1]

In Witness whereof, We have caused these Our Letters to be made patent.

(L.S.) MUIR MACKENZIE.

S. African Treaties, Conventions, etc., presented to the Cape Parl. 1898, p. 358.

[1] Cf. art. 150 of the South Africa Act, 1909, p. 554, above.

APPENDIX B.

BRITISH AND GERMAN SPHERES IN THE SUB-CONTINENT OF AFRICA.

No. 237. *Agreement* between the BRITISH AND GERMAN GOVERNMENTS, respecting Africa and Heligoland.—BERLIN, *1st July* 1890.

The Undersigned,—Sir Edward Baldwin Malet, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary; Sir Henry Percy Anderson, Chief of the African Department of Her Majesty's Foreign Office; The Chancellor of the German Empire, General von Caprivi; The Privy Councillor in the Foreign Office, Dr. Krauel,—

Have, after discussion of various questions affecting the Colonial interests of Germany and Great Britain, come to the following Agreement on behalf of their respective Governments:

EAST AFRICA. GERMAN SPHERE OF INFLUENCE.

ART. I. In East Africa the sphere in which the exercise of influence is reserved to Germany is bounded—

1. To the north by a line which, commencing on the coast at the north bank of the mouth of the River Umba [or Wanga], runs direct to Lake Jipé; passes thence along the eastern side and round the northern side of the lake, and crosses the River Lumé; after which it passes midway between the territories of Taveita and Chagga, skirts the northern base of the Kilimanjaro range, and thence is drawn direct to the point on the eastern side of Lake Victoria Nyanza which is intersected by the 1st parallel of south latitude; thence, crossing the lake on that parallel, it follows the parallel to the frontier of the Congo Free State, where it terminates.

It is, however, understood that, on the west side of the lake, the sphere does not comprise Mount Mfumbiro; if that mountain shall prove to lie to the south of the selected parallel, the line shall be deflected so as to exclude it, but shall, nevertheless, return so as to terminate at the above-named point.

2. To the south by a line which, starting on the coast at the northern limit of the Province of Mozambique, follows the course of the River Rovuma to the point of confluence of the Msinje; thence it runs westward along the parallel of that point till it reaches Lake Nyassa; thence striking northward, it follows the eastern, northern, and western shores of the lake to the northern bank of the mouth of the River Songwe; it ascends that river to the point of its intersection by the 33rd degree of east longitude; thence it follows the river to the point where it approaches most nearly the boundary of the geographical Congo Basin defined in the 1st Article of the Act of Berlin as marked in the map attached to the 9th Protocol of the Conference.[1]

From that point it strikes direct to the above-named boundary; and follows it to the point of its intersection by the 32nd degree of

[1] For map see Hertslet's *Map of Africa by Treaty*, vol. ii., to face p. 643.

east longitude; from which point it strikes direct to the point of confluence of the northern and southern branches of the River Kilambo, and thence follows that river till it enters Lake Tanganyika.

The course of the above boundary is traced in general accordance with a map of the Nyassa-Tanganyika Plateau, officially prepared for the British Government in 1889.[1]

3. To the west by a line which, from the mouth of the River Kilambo to the 1st parallel of south latitude, is conterminous with the Congo Free State.

EAST AFRICA. BRITISH SPHERE OF INFLUENCE.

The sphere in which the exercise of influence is preserved to Great Britain is bounded—

1. To the south by the above-mentioned line running from the mouth of the River Umba (or Wanga) to the point where the 1st parallel of south latitude reaches the Congo Free State.

Mount Mfumbiro is included in the sphere.

2. To the north by a line commencing on the coast at the north bank of the mouth of the River Juba; thence it ascends that bank of the river and is conterminous with the territory reserved to the influence of Italy in Gallaland and Abyssinia, as far as the confines of Egypt.

3. To the west by the Congo Free State, and by the western watershed of the basin of the Upper Nile.

ART. II. [Withdrawal by Germany in favour of Great Britain of protectorate over Witu.]

SOUTH-WEST AFRICA. GERMAN SPHERE OF INFLUENCE.

ART. III. In South-West Africa the sphere in which the exercise of influence is reserved to Germany is bounded—

1. To the south by a line commencing at the mouth of the Orange River, and ascending the north bank of that river to the point of its intersection by the 20th degree of east longitude.

2. To the east by a line commencing at the above-named point, and following the 20th degree of east longitude to the point of its intersection by the 22nd parallel of south latitude, it runs eastward along that parallel to the point of its intersection by the 21st degree of east longitude; thence it follows that degree northward to the point of its intersection by the 18th parallel of south latitude; it runs eastward along that parallel till it reaches the River Chobe; and descends the centre of the main channel of that river to its junction with the Zambesi, where it terminates.

It is understood that under this arrangement Germany shall have free access from her Protectorate to the Zambesi by a strip of territory which shall at no point be less than 20 English miles in width.

The sphere in which the exercise of influence is reserved to Great Britain is bounded to the west and north-west by the above-mentioned line.

It includes Lake Ngami.

The course of the above boundary is traced in general in accordance with a map officially prepared for the British Government in 1889.

The delimitation of the southern boundary of the British territory of Walfisch Bay[2] is reserved for arbitration, unless it shall be settled by the consent of the two Powers within two years from the date of the conclusion of this Agreement. The two Powers agree that, pending

[1] For map see Hertslet's *Map of Africa by Treaty*, vol. ii., to face p. 643.
[2] Cf. No. 41.

such settlement, the passage of the subjects and transit of goods of both Powers through the territory now in dispute shall be free; and the treatment of their subjects in that territory shall be in all respect equal. No dues shall be levied on goods in transit. Until a settlement shall be effected the territory shall be considered neutral.

ART. IV. [Boundary between the British Gold Coast Colony and the German Protectorate of Togo.]

ART V. [Freedom of goods from transit dues between River Benué and Lake Chad.]

ART. VI. [Lines of demarcation traced above shall be subject to rectification by agreement.]

ART. VII. The two Powers engage that neither will interfere with any sphere of influence assigned to the other by Articles I. to IV. One Power will not in the sphere of the other make acquisitions, conclude Treaties, accept sovereign rights or Protectorates, nor hinder the extension of influence of the other.

It is understood that no Companies nor individuals subject to one Power can exercise sovereign rights in a sphere assigned to the other, except with the assent of the latter.

ART. VIII. [Application of Berlin Act of 1885 in spheres of influence within the limits of the free trade zone.]

ART. IX. Trading and mineral concessions, and rights to real property, held by Companies or individuals, subjects of one Power, shall, if their validity is duly established, be recognised in the sphere of the other Power. It is understood that concessions must be worked in accordance with local laws and regulations.

ART. X. In all territories in Africa belonging to, or under the influence of, either Power, missionaries of both countries shall have full protection. Religious toleration and freedom for all forms of divine worship and religious teaching are guaranteed.

ART. XI. [Cession to be made by the Sultan of Zanzibar to Germany of possessions on the mainland and of the island of Mafia. German recognition of British protectorate over the remaining dominions of the Sultan of Zanzibar, including the islands of Zanzibar and Pemba, and Witu. Withdrawal of German protectorate up to Kismayu.]

ART. XII. [Cession of Heligoland by Great Britain to Germany.]

EDWARD B. MALET.
H. PERCY ANDERSON.
v. CAPRIVI.
K. KRAUEL.

BERLIN, 1*st July* 1890.

S. African Treaties, Conventions, etc., presented to Cape Parl. 1898, p. 388.

APPENDIX C.

No. 238. THE CAPITULATION IN GERMAN SOUTH-WEST AFRICA. [9 July 1915.]

The terms of surrender of the military forces of the Protectorate of German South-West Africa, as agreed to by the Government of the Union of South Africa and accepted by His Excellency Dr. Seitz, the Imperial Governor of the Protectorate of German South-West Africa and Commander of the said military forces, which was signed at Kilometre 500 on the railway line between Otavi and Khorab on July 9, 1915, are as follows:

(1) The military forces of the Protectorate of German South-West Africa, hereinafter referred to as the Protectorate, remaining in the field under arms and disposable at the command of the Commander of the said Protectorate forces are hereby surrendered to General The Right Hon. Louis Botha, Commanding-in-Chief the Forces of the Union of South Africa in the field. Brigadier-General H. T. Lukin, C.M.G., D.S.O., acting on behalf of General Botha, shall be the Officer in Charge with arranging the details of the surrender and giving effect to it.

(2) The active troops of the said forces of the said Protectorate surrendered in terms of paragraph 1 shall in the case of officers retain their arms, and may give their parole, being allowed to live each under that parole at such places as he may select. If for any reason the Government of the Union of South Africa is unable to meet the wish of any officer as regards his choice of abode, the officer concerned will choose some place in respect of which no difficulty exists.

(3) In the case of other ranks of the active troops of the said forces of the said Protectorate such other ranks shall be interned under proper guard in such place in the Protectorate as the Union Government may decide upon. Each non-commissioned officer and man of the other ranks last referred to shall be allowed to retain his rifle, but no ammunition. One officer shall be permitted to be interned with the other ranks of the artillery, one with the other ranks of the remainder of the active troops, and one with the other ranks of the police.

(4) All reservists, Landwehr and Landsturm of all ranks of the said forces of the Protectorate now remaining under arms in the field shall, except to such extent as is provided for in paragraph 6 below, give up their arms upon being surrendered in such formation as may be found most convenient, and, after signing the annexed form of parole, shall be allowed to retire to their homes and resume their civil occupation.

(5) All reservists, Landwehr and Landsturm of all ranks of the said forces of the Protectorate who are now held by the Union Government prisoners of war taken from the said forces of the Protectorate, upon signing the form of parole above-mentioned in paragraph 4 shall be allowed to resume their civil occupation in the Protectorate.

(6) The officers of the reserve, Landwehr and Landsturm of the

said forces of the Protectorate, who surrender in terms of paragraph 1 above, shall be allowed to retain their arms, provided they sign parole above mentioned in paragraph 4.

(7) All officers of the said forces of the Protectorate who sign the form of parole above mentioned in paragraph 4 shall be allowed to retain the horses which are nominally allotted to them in their military establishments.

(8) The police of the Protectorate shall be treated, as far as they have been mobilised, as the active troops. Those members of the police who are on duty on distant stations shall remain at their posts until they are relieved by Union troops in order that the lives and property of non-combatants may be protected.

(9) Civil officials in the employment of the German Imperial Government or of the Government of the Protectorate shall be allowed to remain in their homes, provided they sign the parole above mentioned in paragraph 4. Nothing, however, in this statement shall be construed as entitling any such officer to exercise the functions of the appointment which he holds in the service of either of the Government aforesaid or to claim from the Union Government the emoluments of such appointments.

(10) With the exception of the arms retained by the officers of the Protectorate forces and by the ranks of the active troops as provided for in paragraph 2 above, all war material, including all field and mountain guns, small arms ammunition, and the whole of the property of the Government of the Protectorate shall be placed at the disposal of the Union Government.

(11) His Excellency the Imperial Governor shall appoint a civil official of the Protectorate service, who shall hand over and keep a record of all Government property of the civil departments, including records which are handed over to the Union Government in terms of paragraph 10 above, and the Commander of the said forces of the Protectorate shall appoint a military officer who shall hand over and keep a similar record of all Government property of the military departments of the Protectorate.

Given under our hands on this ninth day of July 1915.

(Signed) LOUIS BOTHA, *General Commanding in Chief the Union Forces in the Field.*
SEITZ, *Imperial Governor of German South-West Africa.*
FRANKE, *Lieut.-Colonel, Commander of the Protectorate Forces of German South-West Africa.*

The form of parole is as follows:

"I, the undersigned, hereby pledge myself on honour not to re-engage in hostilities in the present war between Great Britain and Germany."

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